

Annual  
Report  
of the

**FEDERAL  
TRADE  
COMMISSION**

For the Fiscal Year Ended  
June 30, 1960

## Federal Trade Commission

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# Letter of Transmittal

FEDERAL TRADE COMMISSION,  
Washington, D. C.

To the Congress Of the United States:

It is a pleasure to transmit herewith the Forty-sixth Annual Report of the Federal Trade Commission, covering its accomplishments during the fiscal year ended June 30, 1960.

By direction of the Commission.

EARL W. KINTNER,  
Chairman.

THE PRESIDENT OF THE SENATE.  
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

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## THE YEAR'S HIGHLIGHTS

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Unprecedented vigor in law enforcement by the Federal Trade Commission during fiscal 1960 produced a greater volume of casework than during any of its 46 years of existence.

Not only was a new record of 503 complaints achieved, but the previous year was exceeded by 44 percent, with nearly twice as many antitrust actions and 28 percent more cases brought to halt false advertising and other deceptive practices.

Accounting for this performance were three principal factors: First, good teamwork between the Commission and its staff made it possible to take advantage of the momentum generated in the previous few years and to accelerate it sharply; second, increasing awareness by business and the public of the Commission's purpose and capacity encouraged an alltime record number of applications for corrective actions; and, third, investigation techniques were devised to throw a wider net over particular areas of law violation.

Indeed, the fiscal year's performance revealed such actual and potential usefulness both in protecting consumers and in removing illegal stumbling blocks to fair business competition that the Commission's workload grew faster than its capacity to handle it. While the Commission's staff was being increased only 6 percent, from 734 to 778, applications for complaint increased nearly 35 percent, from 4,400 to 5,930. In addition were those law enforcement actions initiated by the Commission itself. In the latter category were cases developed through broad investigations of trade restraints. Acting on information that a few firms were engaging in illegal practices, the Commission took steps to ascertain how widespread was the practice and what type of action could correct it effectively and equitably.

Were it possible to single out any particular aspect of the Commission's work which would distinguish fiscal 1960 from previous years, it would be the unprecedented emphasis given efforts to correct improper business practices on a wide scale. This was true both in the antimonopoly and anti-deceptive-practice fields. Wherever and whenever it was feasible, the Commission undertook to spread its corrective action to as many equally culpable business

firms as possible. In many cases, of course, simultaneous actions could not be undertaken without unduly delaying justice, whereupon the Commission followed its historic pattern of bringing individual cases to serve the dual purpose of halting specific violations of the law and identifying the shoals of illegality for the guidance of business and the public.

Of the broad scale corrective actions, the most significant was the precedent breaking effort to halt widespread violations of the Robinson-Patman amendment to the, Clayton Act. Here , two pronged attack was mounted, with one objective to educate businessmen to the R-P Act's prohibitions against illegal promotional allowances and services (principally advertising allowances), and the other objective to identify law violations on an industrywide basis and bring the necessary mandatory action to halt them on as nearly a simultaneous basis as possible.

The educational phase of this effort was accomplished through issuance of the Commission's first Guide pertaining to the antitrust laws. This Guide spelled out in layman's language the general prohibitions of sections 2(d) and 2(e) of the R-P Act. These outlaw the giving of discriminatory allowances or services to a favored buyer in commerce. By the end of the fiscal year, more than 40,000 copies. of this Guide had been distributed, and the, demand for more was continuing. In, addition, many business groups and trade associations, as well as the trade press, reported the Guide in great detail.

The mandatory actions looking to the halting of industrywide. violations of the R-P Act were highlighted during the year by on attack on illegal brokerage in the citrus fruit industry. Employing its powers under section 6 of the FTC Act which had heretofore been rarely used in investigating possible law violations the Commission ordered, 118 Florida corporations engaged in shipping fresh citrus fruit to file reports on specified aspects of their business. These reports verified the fact that illegal brokerage payments were widespread. Here both equity and proper law enforcement required fast action against all the violators. The section 6 questionnaires were sent out beginning in April 1960, and 3 months later 41 formal complaints had been issued. A significant byproduct of the reports was, that they prompted 26 additional investigations involving other alleged law violations.

Use of its section 6 powers for a broad probe into possible violations of the R-P Act also was employed by the Commission in the grocery field. Questionnaires were sent to 113 suppliers of groceries who participated in extraordinary sales promotions by their chainstore customers. Similar reports were required during the year from 205 chain and cooperative store organizations to determine whether

they had induced or received illegal advertising or promotional allowances.

Another and much more publicized cleanup of a wide area of law violation involved "payola," the practice of phonograph record distributors to make secret payments to "diskjockeys" to induce them to exaggerate the popularity of certain musical recordings. Because this deception had been practiced on so many millions of radio and television listeners, its disclosure became front-page news throughout the country. The Commission issued 98 formal complaints and 54 consent orders from December 1959 to the end of the fiscal year.

Three other noteworthy actions marked the Commission's determination to make fullest use of broad-scale efforts to enforce the law as a means of augmenting the traditional and necessary adversary proceedings against individual offenders. One of these actions was the issuance of a Guide exposing the trickery of bait advertising; another was aimed at deceptive advertising of guarantees on all kinds of products. Not only did the issuance of these two guides serve notice on sellers that the Commission had defined for them a legal danger zone, but their potential victims were alerted to the workings of these two forms of unsavory salesmanship. The third noteworthy action was small in immediate impact but large in potential. This was an investigation of several retail furniture dealers in Washington, D.C., to determine whether they were using fictitiously high "original" prices in order to make the selling prices appear to be bargains. It soon was evident, that the practice was general in the District of Columbia, whereupon all furniture dealers were invited to correct the practice simultaneously. They agreed. Thus, without litigation and without putting any firm at a competitive disadvantage in the process, fictitious pricing of furniture was eliminated in the area. Similar simultaneous cleanups of other areas of false advertising were being planned at the year's end.

While actions involving multiple respondents have the twin merits of halting illegal practices on a broad scale and of not penalizing a few for the sins of many, law enforcement cannot be delayed for convenient groups of violators. Therefore, most of the Commission's actions were directed against alleged illegal acts of individual respondents in individual situations.

The bare statistics tell, in part, the story. Total complaints (503) and total orders (346) exceed, any year's output in the Commission's history. Antimonopoly complaints reached a record 157 compared with 79 in fiscal 1959, while complaints against deceptive practices were 346 compared to 271 the year before. Deceptive practice orders were 289 compared to 267 the year before. Only in antimonopoly orders was there a decrease—from 64 to 57; however, in explanation is found in the fact that new legislation effective in fiscal 1960 gave

finality to Clayton Act orders and invited more strenuous defenses against FTC complaints.

Eleven new complaints against alleged illegal corporate mergers marked an alltime high in the Commissions prosecution of these major cases. The products affected by the mergers included steel, cement, lumber, plumbing and heating equipment, bakeries, electrical insulation products, and paper products. In addition, five orders were issued: Gulf Oil Corp. was required to sell numerous properties it obtained through the acquisition of Warren Petroleum Corp.; Erie Sand & Gravel Co. was ordered to divest itself of the assets it acquired from the Kelley Island Co.; Reynolds Metals Co. was ordered to sell Arrow Brands, Inc., in order to restore competition in the sale of decorative aluminum foil.; Diamond Crystal Salt Co. was ordered to sell certain salt mining properties it obtained by acquiring Jefferson Island Salt Co.; and A. G. Spalding & Bros., Inc., the Nations second largest seller of athletic goods, was required to sell Rawlings Manufacturing Co., a principal competitor it had purchased in 1955.

Of the 28 merger cases pending at the fiscal year's end, 25 were in trial, 2 had been ruled upon by hearing examiners, whose initial decisions were on appeal to the Commission, and 1 case awaited a hearing examiner's initial decision.

Most numerous of the year's antimonopoly cases were the 130 complaints issued to combat alleged violations of the Robinson-Patman amendment to the Clayton Act. This was nearly double the number of such complaints in fiscal 1959. In addition, the Commission issued 45 orders to cease and desist from R-P Act violations.

Price discrimination and its inducement accounted for more than a third of these actions, with numerous cases in the food field, particularly bakery and dairy products, fruits and vegetables, and candy. The distribution of automotive parts and supplies also called for corrective actions against some of the biggest manufacturers in the Nation. In addition, the use of so-called buying groups as a means of inducing discriminatory prices was challenged in four complaints involving nearly 100 jobbers of automotive products and supplies.

Ten other complaints challenged annual cumulative discount systems used by certain leading rug manufacturers. Other price discrimination complaints issued during the year involve Sperry Rand Corp., of New York City (typewriters and business machines); Cutter Laboratories, Berkeley, Calif. (biologicals, pharmaceuticals, and related products); Chemway Corp., Wayne, N.J. (Lady Esther cosmetics); and Byer-Rolnick Hat Corp., Garland, Tex., the third largest company in the hat industry.

Additional cease-and-desist orders issued during the year were against Westinghouse Electric Corp., of Pittsburgh, Pa. (major home

appliances) ; General Natural Gas Corp., Monticello, N.Y. (bottled gas) ; and Pressman Toy Corp., New York City (toys).

Increasing emphasis was given the enforcement of the R-P Act's prohibition against the granting of discriminatory advertising and promotional allowances. A total of 44 complaints and 34 orders were issued against this practice during the year. The Commission also, moved to prevent economically powerful buyers from coercing suppliers to grant them discriminatory promotional aids. In five important proceedings, the complaints named both the buyers and their suppliers, the former under section 5 of the FTC Act and the latter under section 2 (d) of the R-P Act. These cases were brought against two grocery chains, a manufacturer of plumbing, heating, and kitchen equipment, an association of toy wholesalers, a printing equipment company, and representative suppliers of each.

In this area of law enforcement was a complaint against R. H. Macy & Co., Inc., of New York City, charging that it had induced nearly 600 suppliers into contributing more than a half million dollars toward the cost of the company's 1958 centennial celebration. Another group of actions resulted in orders against five of the Nation's largest cigarette manufacturers to stop discriminating in the payment of advertising and promotional allowances.

It could be presumed that this intensification of formal actions to halt illegal promotional allowances had the effect of inviting a more thoughtful reading by businessmen at the Commission's Robinson-Patman Guide on this subject.

Another major area of stepped-up enforcement of the R-P Act was directed against sellers paying unlawful brokerage to persons or firms purchasing on their own account for resale. As already mentioned, this was the subject of an industrywide attack in the sale of citrus fruit; it also was prosecuted vigorously against sellers of seafood on the west coast and against certain sellers and buyers of canned fruits and vegetables.

Exclusive dealing ,and illegal price fixing also came under Commission fire. For example, Rayco Manufacturing Co., Inc., one of the Nation's largest suppliers of automobile seat covers, was ordered to stop making such agreements with its independent retail dealers, and Photostat Corp., of Rochester, N. Y., the largest seller of photographic copying machines and supplies in the country, was ordered to stop using illegal inducements and unreasonable tying arrangements to sell supplies to owners and operators of the machines.

Other important restraint-of-trade cases resulted in orders against five manufacturers and marketers of products used in laying wall-to-wall carpeting to stop fixing prices and otherwise limiting competition. Also, three franchised wholesale distributors of General Motors diesel engines and replacement parts were ordered to stop conspiring to fix prices or selling conditions for the parts.

The Commission successfully challenged the practice by Procter & Gamble Co., the Nation's largest producer of soaps, detergents, etc., to enter into unlimited exclusive contracts with manufacturers of automatic washing and dishwashing machines to pack samples of P & G soap detergents and bleaches in the appliances. The Commission issued an order prohibiting such contracts on grounds that they illegally restrain trade by foreclosing competing detergent manufacturers from engaging in free sampling contracts and from receiving the prestige of endorsements at both the manufacturer and the retail and demonstrator level.

Restraints on competition also were challenged in several important cases involving seafood. Two Maryland clam digger associations were ordered to stop fixing or enforcing prices of seafood or boycotting dealers seeking better prices. Across the country, the Washington Crab, Association was charged with unlawfully restraining competition in the Dungeness crab industry, and in New Orleans, the Peelers Co. was charged with achieving a virtual monopoly in the shrimp processing machinery business.

Even more significant were three complaints charging two midwestern dairies with having conspired illegally with three of the country's largest grocery chains, the Kroger Co., Safeway Stores, and the Great Atlantic & Pacific Tea Co., to reduce competition in the sale of dairy products. The grocery chains were alleged to have given the dairies' preferential marketing efforts in return for preferential prices, allowances, and services not offered to buyers competing with the chains.

Other major complaints against alleged price fixing were directed against the Standard Oil Co. (Indiana) for entering into price maintenance agreements with certain of its service station lessee retailers under its "Suggested Competitive Retail Price Plan"; and against the Brown Shoe Co., of St. Louis, Mo., the world's second largest manufacturer of shoes, for entering into franchise agreements with some 650 independent shoestores whereby the, latter are forbidden to buy, stock, or sell competitive shoes. Brown also is alleged to have required 15,000 independent retail shoe customers to maintain noncompetitive resale prices fixed and enforced by Brown.

The record of the Commission during fiscal 1960 in the vital, area of antimonopoly enforcement speaks for itself.

In the field of deceptive, practices, widest attention was given the Commission's efforts to eliminate deception in television commercials. Particularly objectionable from the standpoint of the laws enforced by the Commission were false and misleading demonstrations of a product's qualities, especially when compared with competing products. Nine nationally ,advertised products were named in complaints which alleged that either camera trickery had been used or that essential facts had been omitted from the televised portrayal of the

products. In most of the cases, both picture and script were challenged on grounds that they either falsely disparaged competing products, or materially exaggerated the merits of the product advertised. Among the products involved were dentifrices, margarine, shaving cream, aluminum foil, cigarettes, and automobile windshield glass.

From the standpoint of case volume, fictitious pricing Continued to be the chief evil in the field of false advertising. A total of 73 complaints was issued, virtually all of which challenged the representation that the selling price of a product was a bona fide reduction' from a former price, when in fact, the product rarely, if ever, had been sold at the "former" price in the trade area where the product was offered for sale. In many cases, the "reduction" was from a, "Manufacturer's List Price" at which the product had never regularly sold in the area. Furs continued to lead the list of commodities whose presale "values" were most often misrepresented. Here, as in the sale of other merchandise, the use of labels carrying fictitiously high former prices was a familiar device not only to deceive customers at the point of purchase but to support deceptive advertising.

Among the more conspicuous cases brought in this area during the year were those against Gimbel Bros., Inc., New York City, on charges that it was advertising luggage as having been sharply reduced in price when in fact, the "reduced" price was that at which it normally retailed; and against Stein Stores, Inc. (now Coghlen Corp.), a clothing chain with 85 retail outlets in the country, for having advertised "\$55 value" suits for \$33 or \$24.77. The complaint alleged the chain had not recently or customarily sold such suits for \$55. Also challenged was the store's claim ' that it sold clothing at "factory prices" even though the usual markup was included in the price.

Because competitive inequities may result when merchandisers of products sold in interstate commerce are made to comply with standards which may be ignored by those who sell only locally, the Commission brought a test case during the year. This charged S. Klein Department Stores, of New York City, with having made false pricing and savings claims for its merchandise in advertising in newspapers and on radio and television. The unusual element of the complaint is that solely because the alleged false claims were given interstate circulation by the print and broadcast media, the Commission asserted jurisdiction in the matter. It still was pending at the end of fiscal year.

Closely related to the practice of fictitious pricing is bait advertising. Here products are advertised at sensationally low prices simply to attract customers for higher priced products. The bargain bait is sold with determined reluctance, if at all. As in previous years, most of the Commission's actions to halt this practice were directed

against sellers of household appliances; however, because the bait advertising idea also caught on with operators in the home improvement field, the Commission issued four complaints against builders and installers of house shells, kitchens, bathrooms, roofs, storm windows, carports, patios, and garages.

The so-called "business opportunity" rackets continued to receive Commission attention. Most of these cases involved the advertising of part-time, easy work and startling profits to be made from a small investment in vending machines. The falsity, of course, was in the highly exaggerated claims for the potential profits. For example, the Commission brought a complaint against a midwestern manufacturer charging him with falsely advertising that an investment of less than \$3,000 in electronic testing equipment could produce a monthly income of \$650. Also alleged to be false were the manufacturer's assurances to purchasers that he would establish a profitable route of locations for the machines and relocate or repurchase any that might be unprofitably placed. The complaint noted that when the sale had been consummated the manufacturer had no further concern with the buyer.

The Commission's ceaseless efforts to halt one of the cruelest of all forms of false advertising continued with six complaints against spurious correspondence schools. Here the misrepresentations were the sadly familiar exaggerations of job opportunities, salaries paid to graduates, and the qualifications of the course to equip a student to enter a field of knowledge. Dangling such enticements before the youthful and the ambitious, the schools pursued their dominant purpose to collect tuition fees.

The fiscal year also witnessed vigorous enforcement of the Wheeler-Lea amendment to the FTC Act'. Under this authority, the Commission challenged false advertising of health shoes, trusses, dietary bread, and an alleged weight-reducing vibrating couch. Also, an industrywide attack was made on the advertising of corneal contact lenses as being comfortable for all who would wear them. Simultaneous complaints against 10 sellers of these lenses from coast to coast alleged that a significant number of persons cannot wear them successfully and virtually all will experience initial discomfort. Also challenged were claims that the lenses would correct all defects in vision.

An unusual case, wherein the ego rather than the health of customers was involved, was brought against Arthur Murray, Inc., the licensor of some 450 "Arthur Murray Studios" throughout the world. Challenged by the Commission were deceptive promotional schemes whereby "winners" of contests were flattered into purchasing dancing instructions, ranging in price from \$20 an hour to \$12,000 for 1,200 hours.

To round out the picture of the Commission's anti-deceptive-practice work in enforcing the FTC Act were groups of actions against such familiar rackets as "advance fee" loan procurement and real estate advertising (12 cases), the false advertising of automotive products including mufflers, batteries, oil additives, and radiator treatments (8 cases), the offering of rebuilt radio and T-V tubes as new (7 cases), and "skip tracing" cases in which delinquent debtors are tricked by deceptive forms into revealing their whereabouts (7 cases).

The other major areas of deceptive practices against which the Commission moved with vigor were false advertising and labeling of furs, wool products, and other textiles. The statistics reveal only in part the effort made: 35 complaints and 40 orders relating to a variety of violations of the Wool Products Labeling Act, and 55 complaints and 70 orders against violators of the Fur Products Labeling Act. In its enforcement of these consumer acts the Commission can expect little help from aggrieved consumers or injured competitors, for, in most cases, they are unaware they are being victimized; instead the Commission must depend on its own policing force working in strategic areas according to well-organized plans. And a staggering responsibility it is because of the extent of the businesses; for example, more than 100 different industries make textile products subject to the provisions of the Wool and Textile Acts, while 7,500 manufacturers and 175,000 distributors deal in products coming under the Fur Act.

It was in March 1960 that the Textile Fiber Products Identification Act became effective, and the Commission's Division of Textiles and Furs made extensive efforts to educate the industry to the requirements of the act and the rules issued under it. From experience in administering the Wool, Fur, and Flammable Fabrics Acts, the Commission learned that the first few years are the most difficult for administration; therefore, it was of paramount importance that effective educational and orientation programs precede full-scale policing of compliance with the new law. Moreover, the preliminary educational approach invited far more willingness on the part of the industry to comply with the law voluntarily. This educational phase is drawing to a close, with sterner measures ready for use against the indifferent or the willful violator.

The foregoing highlights of the Commission's casework in fiscal 1960 reveal the scope of its actions looking to the issuance of cease-and-desist orders. However, the Commission's law enforcement responsibilities go further. It must defend against appeals from its orders and police compliance with them.

During the year, total judgments of \$39,300 in civil penalty suits were obtained, and a judgement of \$60,000 in criminal contempt proceedings was handed down by the U.S. Court of Appeals for

the Third Circuit. The 25 civil penalty suits certified to the Attorney General more than doubled the number of such suits filed in any year since 1947 when the Compliance Division was established. Moreover, the step-up in compliance activity promises to increase even more due to the ever larger number of outstanding orders, plus the fact that on July 23, 1959, the President signed Public Law 86-107 which gives the Commission's orders issued under the Clayton Act the same finality backed by the same penalties as those issued under the FTC Act. The effect is to deprive respondents to Clayton Act orders of their former privilege of incurring no penalty for a second violation of an order (other than to have the FTC's order affirmed by a court of appeals, so that a third violation could be prosecuted as a contempt of court action).

In addition to bringing civil penalty actions, the Compliance Division undertook to survey the pricing practices of more than 70 manufacturers of steel who are subject to the Commission's cease-and-desist order issued in 1951 in the case of American Iron & Steel Institute et al. As a result of the survey, the Commission has undertaken further steps to determine the manner of compliance in this case.

Also under investigation during the year was whether a number of respondents in the Cement Institute et al. case were complying with an FTC order, affirmed by the Seventh Circuit Court of Appeals, to stop certain trade restraints involving pricing, terms of sale and discounts, and trade policies.

Altogether, a total of 173 compliance investigations, including 36 antimonopoly matters, were undertaken during the fiscal year, and a total of 1,251 compliance matters of all types were disposed of.

In defending its orders appealed to the courts, the Commission achieved signal success. Three cases were decided by the Supreme Court, all in favor of the Commission. In addition, the high court denied 11 petitions for certiorari to review courts of appeals decisions in favor of the Commission, and granted a petition filed on behalf of the Commission to review an unfavorable decision. In courts of appeals, seven of the Commission's orders were affirmed and enforced; two others were modified and, as modified, enforced; another was dismissed upon joint motion, and the final one was dismissed for lack of prosecution by the petitioner.

At the same time that the Commission was bringing its record numbers of formal cases and defending its decisions, whenever necessary, all the way to the Supreme Court, the Commission's Bureau of Consultation was striving to achieve comparably important results through voluntary processes. Here an alternative to compulsion was sought in the basic concept that businessmen to whom the law has been made clear can be persuaded to abide by it—that unfairness

and chicanery must wilt and shrivel under the light of industrywide understanding of what the law requires. Certainly, illegal practices become more conspicuous and hence more vulnerable.

At the close of the fiscal year, 161 industries operated under trade practice rules promulgated for them by the Commission after full and open hearings. New rules had been set forth for the Tire and Tube Repair Material Industry, and revised rules had been promulgated for the highly competitive Jewelry Industry and for the Woodworking Machinery Industry. In addition, revised rules for the Hosiery Industry were submitted to the Commission for approval. Trade Practice proceedings for several other industries, including Wholesale Optical, Hearing Aid, Luggage and Related Products, and Feather and Down, were advanced during the year. At the same time, attention was given to maintaining compliance with existing rules, and 774 alleged violations were satisfactorily corrected.

To augment its efforts to achieve compliance with TPC rules by individual businesses, the Bureau of Consultation inaugurated a further program designed to encourage industrywide compliance on a voluntary basis. The first of a series of conferences to this end was held for members of the jewelry industry on June 10, 1960, in New York City.

Trade practice rules are essential for the education and guidance of an industry. No penalty attaches to a violation of a rule as such. However, inasmuch as the rules reflect the Commission's interpretation of the law's requirements, a rule violation may lead to formal complaint proceedings or, if less serious, to disposition through a stipulation agreement.

The Commission's Bureau of Consultation negotiates stipulations whereby parties informally agree to cease and desist from certain practices of a less serious nature. In such agreements, the respondent, without admitting any violation of law, agrees to cease and desist from the objectionable practice. Altogether, 112 stipulations were entered into by respondents during 1960, and, of these, the Commission approved 103 with others still pending. The agreements cover a miscellany of deceptive practices, mostly advertising misrepresentations.

In the field of economics, the principal activity of the Bureau of Economics was completion of the first phase of its "Economic Inquiry into Food Marketing." Returns from questionnaires sent to chainstores, voluntary groups, wholesale grocers and retailer-owned cooperative organizations provided basic data for analysis. The findings were contained in a 338 page report entitled: "Part I—Concentration and Integration in Retailing," which pointed up the growing power of the corporate chains (companies with 11 or more

stores) and the decline of the independent grocer. However, the report concluded that retailer-owned cooperatives and wholesaler-sponsored "voluntary groups" of retailers "have shown a capacity for effective competition with the corporate chains."

The growth of food chains and organized groups of independent retailers at the expense of unaffiliated grocers was particularly noticeable in the 15 metropolitan areas selected by the Commission for special study. These were: Altoona, Pa.; Atlanta, Ga.; Bridgeport, Conn.; Denver, Colo.; Des Moines, Iowa; Fort Smith, Ark.; Indianapolis, Ind.; Lubbock, Tex.; Manchester, N.H.; Peoria, Ill.; Phoenix, Ariz.; Roanoke, Va.; Spokane, Wash.; Stockton, Calif.; and Utica, N.Y.

In January 1960, planning was begun on part II of the report, which would analyze and show the effect of concentration and integration through mergers and otherwise on competitive practices. The latter would include promotional and brokerage allowances, uniform and possibly collusive pricing, discrimination as to size of purchasers and trends in private labels in all steps of the distribution of frozen food and canned food. Special attention would be given the distribution through chainstores.

The year's highlights require inclusion of a few observations about legislation affecting the Commission's work. The passage of Public Law 86-107 amending the Clayton Act to make orders to cease and desist under that act final in the same way as orders issued under section 5 of the FTC Act was a long needed improvement to achieve faster and more effective enforcement of the Clayton Act. The Commission had sought this change for 20 years.

Another major legislative objective, however, failed of enactment. This would have authorized the Commission to apply to Federal district courts for preliminary injunctions against those proposed mergers which might violate section 7 of the Clayton Act. Injunctions could also have been sought to maintain the status quo in instances where mergers had already been accomplished, pending litigation to determine their legality. The legislation also would have enabled the Commission to require corporations of a significant size to notify the Commission of mergers they proposed to make.

This legislation is needed to simplify the divestment of the merged or acquired properties should litigation establish that the mergers or acquisitions are illegal. As it now stands, merging companies can become so intermingled that restoration of premerger competitive conditions is extremely difficult if not impossible.

Total accomplishments in fiscal 1960 did much to better acquaint business and the public with the Commission's purpose and effectiveness.

It was a year of hard and productive work for the Commission. The reward was an alltime peak in accomplishment, a greater public awareness of its function, and, as a result, a heavier workload at the end of the year than at the beginning.

## SCOPE OF AUTHORITY

### Basic Functions of the FTC

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The Federal Trade Commission is composed of five Commissioners appointed by the President and confirmed by the Senate, of whom no more than three may be of the same political party. The Commission is charged with the responsibility for administering and enforcing laws in the field of antitrust and trade regulation. They deal with prevention of monopoly, restraints of trade, and unfair trade practices. The Commission also has the duty of investigating and reporting economic problems and corporate activity, particularly in relation to the antitrust laws and in aid of legislation. A primary purpose of the laws which the Commission administers is to protect competition in our private enterprise economy. These statutes are briefly described below.

The Federal Trade Commission Act of 1914, including the Wheeler-Lea Act Amendments of 1938

This legislation confers upon the Commission two broad functions. Under the first, the Commission, subject to certain exceptions, is "empowered and directed to prevent persons, partnerships, or corporations,<sup>1</sup> \* \* \* from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce," which are declared by the statute to be unlawful. The Commission is given power to investigate, to hear cases and to make determination of practices falling within this proscription.

Whenever deemed necessary in the public interest to resort to mandatory proceedings, the Commission is authorized to issue complaints against persons, partnerships, or corporations within its jurisdiction which it has reason to believe have been or are using any such unlawful methods, acts, or practices in commerce. If, upon due proceeding and

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<sup>1</sup> Excepted from the jurisdiction of the Commission under such section are "banks, common carriers subject to the acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Administration Act of 1938, and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) of said act. \* \* \*" Specific exemption from such provision against unfair methods of competition and unfair or deceptive acts or practices in commerce is provided for resale price maintenance contracts or agreements coming within the Federal Fair Trade Act approved July 14, 1952 (15 U.S.C. 47), also known as the McGuire Act.

hearing, the Commission finds that the practices in question violate the act, it is empowered to issue a cease and desist order against the offending party or parties. Such an order may be appealed from the Commission to a United States court of appeals, which is authorized to review the proceeding and to affirm, enforce, modify, or set aside the Commission's order. Thereafter, the case may be taken to the Supreme Court of the United States upon writ of certiorari.

Originally, the cease and desist orders issued under the Federal Trade Commission Act were enforceable only by the appellate court through contempt proceedings, after its action had transformed the order into a decree of the court. The 1938 Wheeler-Lea amendments provided for a civil penalty action in the United States district court for violation of such final cease-and-desist orders. Under this provision the orders become final either through affirmance by the Court of Appeals or at the end of 60 days in the event no appeal is taken. If the order is violated after becoming final, a civil penalty suit may be instituted by the United States. Such an action is brought by the Attorney General at the request of the Commission, and the district court is authorized to impose civil penalties up to \$5,000 for each offense. Under an amendment enacted in 1950, each day of a continuing violation may be treated as a separate offense.<sup>2</sup>

The Wheeler-Lea Act amendments also conferred special authority upon the Commission for the control of false advertising of foods, drugs, cosmetics and curative or corrective devices. For such purposes the term "false advertisement" is defined to mean "an advertisement, other than labeling, which is misleading in a material respect;<sup>3</sup> \* \* \*." The term also is employed in section 4 of the Oleomargarine Act to any representations or suggestions that oleomargarine is a dairy product. In cases of this type, jurisdiction of the Commission may be grounded in use of the United States mails as well as interstate commerce. When necessary for protection of the public interest, the Commission is authorized to obtain temporary injunctions against the false advertising of foods, drugs, cosmetics or curative devices, pending completion of the cease and desist order proceedings. Where the commodity advertised is injurious to health, or where the advertising is with intent to defraud or mislead, criminal prosecution may also be had with maximum penalties of a \$5,000 fine and 6 months' imprisonment, or double this fine and imprisonment in case of second offenses. The Commission is authorized to certify the facts to the Attorney General for prosecution whenever it has reason to believe any person, partnership or corporation is liable under the criminal provision.

The second broad category of functions conferred upon the Commission under the Federal Trade Commission Act consists of the

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<sup>2</sup> Amendment contained in the Oleomargarine Act (64 Stat. 20).

<sup>3</sup> Sec. 15, Federal Trade Commission Act.

powers conferred by section 6. This section empowers the Commission to gather and compile information concerning, and to investigate from time to time, "the organization, business, conduct, practices, and management of any corporation engaged in commerce, except banks and common carriers subject to the Act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships." The Commission also is empowered to require such corporations to furnish information and to file annual and special reports. When directed by the President or Congress, the Commission is authorized to investigate and report facts relating to any alleged violations of the antitrust acts by corporations; to investigate for the Attorney General, or on the Commission's own initiative, the manner in which antitrust decrees against corporations are being carried out; and further, upon application of the Attorney General, to recommend readjustments of the business of corporations alleged to be in violation of the antitrust acts in order to bring the conduct of such business into accord with the requirements of law.

The Commission is further empowered to investigate from time to time trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States and to make reports thereon to Congress with recommendations. Under those section 6 powers of investigation and reporting, the Commission serves the executive and legislative branches of the Government, particularly in antitrust problems and in aid of legislation.

Section 7 confers authority upon the Commission to act as a master in chancery upon reference from the court to ascertain and report an appropriate form of antitrust decree in equity suits brought by or at the direction of the Attorney General.

The act confers visitorial powers upon the Commission, including specifically the right of access to documentary evidence of corporations, the right to issue subpoenas, examine witnesses, and require the production of testimony and documentary evidence, and the power to make rules and regulations to carry out provisions of the act.

#### Amendment to Packers and Stockyards Act of 1921—Public Law 85-909

This act of September 2, 1958, confers upon the Commission jurisdiction over the activities of meatpackers insofar as nonmeat food products are concerned. Prior to the amendment, the law had been interpreted as precluding the Commission from exercising any authority whatsoever over meatpackers regardless of the commodity involved.

The act also gave the Commission jurisdiction over all transactions in commerce in margarine or oleomargarine and over retail sales of

meat, meat food products, livestock products in unmanufactured form, and poultry products.

It further provided, in substance, that the Commission could exercise jurisdiction over the wholesale operations of meatpackers if effective exercise of its power or jurisdiction with respect to retail sales of meat and meat food products would be impaired, and if, after notifying the Secretary of Agriculture, it was determined that the latter was not conducting an investigation or proceeding involving the same subject matter.

A corresponding provision was made for the Secretary of Agriculture to exercise jurisdiction over the retail sales of meat and meat food products if his authority over wholesale operations would otherwise be impaired and if the Commission was not investigating or proceeding with respect to the same matter.

Shortly after the enactment of this statute, several conferences were held between officials of the two agencies to discuss the liaison arrangements which should be established under the act in order to coordinate their activities in the most efficient manner. Liaison officers were thereafter appointed for each agency and an effective system was derived for the mutual exchange of information on matters with respect to which both agencies may process concurrent jurisdiction.

As of the end of fiscal year 1959, there had been no instance in which it was necessary for either agency to invoke the provisions of, or to follow the procedures outlined in the sections of the statute referred to above. Close liaison was maintained, however, with regard to jurisdictional problems in connection with incoming complaints of a borderline character.

One concrete development resulting from the realignment of jurisdiction over meatpackers was the dismissal of a complaint which had been filed by the Secretary of Agriculture against Swift & Co. on charges of engaging in unfair or discriminatory practices in the sale of ice cream. The complaint in this case was dismissed without prejudice on June 1, 1959, and the matter was referred to the Commission for such further action as might be deemed appropriate.

#### The Clayton Act<sup>4</sup>

This antitrust law was enacted in 1914. It designates the Federal Trade Commission as an enforcing agency for the provisions of sections 2, 3, 7, and 8. Procedures are prescribed in section 11 by which, upon complaint and due hearing, corrective action may be applied by the Commission in the form of a cease and desist order or, in merger cases, an order of divestiture.

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<sup>4</sup> Approved October 15, 1914 (88 Stat. 780).

Section 2 of the Clayton Act, amended by the Robinson-Patman Act—Discriminatory Pricing.<sup>5</sup> —Subject to specified justification and defenses, this section provides that it shall be illegal to discriminate in price between different purchasers of commodities of like grade and quality sold for use, consumption, or resale within the United States, where the effect of the discrimination "may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefits of such discrimination, or with customers of either of them."

Exception is provided for differentials which make only due allowance for differences in cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the commodities are sold or delivered. Selection of customers in bona fide transactions and not in restraint of trade are not prohibited. The section, as amended, also specifies exceptions respecting sales necessitated by market conditions, disposition on account of deterioration of perishable goods; obsolescence of seasonal goods; distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned. A defense to a charge of discrimination is also specified in regard to sales "made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

Quantity-Limit Provision.—This is also contained in section 2 of the amended Clayton Act. It confers authority upon the Commission, after due investigation and hearing of all interested parties, to fix and establish quantity limits as to particular commodities or classes of commodities "where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce.)"

Brokerages, Commission, Proportionally Unequal Terms or Facilities.—The Robinson-Patman Act also forbids the payment of certain brokerages and commissions except for services rendered to the party making the payment, as well as forbidding the payment by manufacturers or sellers for, or the furnishing of, services or facilities to dealers or resellers in connection with the processing, handling, sale, or offering for sale of the products or commodities sold, unless such payments or the services or facilities furnished are made available to all competing customers on proportionally equal terms.

Inducement of Discrimination.—Another provision of the Robinson-Patman Act makes it unlawful for any person in the course of commerce "knowingly to induce or receive" an illegally discriminatory price.

Tying or Exclusive Dealing Contracts.—Section 3 of the Clayton Act prohibits the lease or sale in the course of commerce of goods,

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<sup>5</sup> Approved June 19, 1936 (49 Stat. 1526).

wares, merchandise machinery, supplies or other commodities, for use, consumption or resale within the jurisdiction of the United States on the condition, agreement or understanding that the lessee or purchaser shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of competitors of the lessor or seller, where the effect thereof "may be to substantially lessen competition or tend to create a monopoly in any line of commerce."

Anti-Merger Law.—This statute, approved December 29, 1950,<sup>6</sup> is in the form of a revision and restatement of section 7 of the original Clayton Act. It is specific legislation on the subject of suppression of competition through the merger or consolidation of corporations. Such conduct is prohibited, whether brought about by the direct or indirect acquisition of either stock or assets of the acquired corporation, where the effect of the acquisition or merger may be substantially to lessen competition or tend to create a monopoly in any line of commerce in any section of the country. Certain exceptions are provided, including cases in which the stock is purchased solely for investment and not used for voting or otherwise to bring about or attempt to bring about the substantial lessening of competition. The Commission is designated as having enforcement responsibility applicable to commercial enterprises generally but not including specific businesses which are under the regulatory authority of other agencies, such as banks and common carriers.

Interlocking of Corporate Directorates.—Section 8 of the Clayton Act prohibits a person from serving at the same time as a director of two or more corporations, any one of which has capital, surplus, or undivided profits aggregating more than \$1,000,000, when such corporations are or have been competitors under the conditions prescribed, so that the elimination of competition would constitute a violation of any provisions of the antitrust laws.

Specifically excluded from the jurisdiction of the Federal Trade Commission under this as well as other sections of the Clayton Act are certain types of commercial enterprises subject to other regulatory authority, such as common carriers, air carriers, banks, banking associations and trust companies.

#### The Webb-Pomerene Export Trade Act of 1918<sup>7</sup>

This law authorizes limited cooperative activity among American exporters for the purpose of promoting export trade. Associations engaged solely in export trade are afforded exemption from the Sherman Act within certain strict boundaries set out in the act. To qualify for such exemption, an association must file with the Commission copies of its association papers or articles of incorporation and a

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<sup>6</sup> 64 Stat. 1125.

<sup>7</sup> 40 Stat. 516.

complete description of its organizational structure, and bring this information up to date yearly. The Commission may require submission of additional information relating to the association's business activities at any time. A continuing surveillance of association activities is maintained by the Commission's Division of Export Trade.

Whenever the Commission concludes that an association is not operating within the limits of the antitrust exemption provided by the act, it may make recommendations to the association for readjustment of its practices. Upon failure of an association to comply with such recommendations, the Commission will refer the matter to the Attorney General for appropriate action.

The act also extends the prohibitions of the Federal Trade Commission Act to unfair methods of competition used in export trade against export competitors even though the acts are done outside the territorial jurisdiction of the United States.

The Wool Products Labeling Act, the Fur Products Labeling Act, and the Textile Fiber Products Identification Act<sup>8</sup>

These three Federal statutes constitute "truth-in-fabrics" and "truth-in-furs" legislation. Under their terms the disclosure of content and other important factual information is required on labels and in advertising of textile and fur products.

Violations of these acts are classed as unfair methods of competition and unfair or deceptive acts and practices under the Federal Trade Commission Act. Mandatory labeling of textile, wool, and fur products is required. Labels on wool and textile products are required to disclose by percentages the constituent fibers contained therein. Labels on fur products as well as the advertising and invoicing of such products are required to disclose to prospective purchasers the true name of the animal from which the fur was taken. For this purpose an official Fur Products Name Guide has been issued by the Commission. The disclosure of other important information is required in order to inform the purchaser when the fur product is dyed, bleached, damaged, secondhand, or made of scraps or pieces. Under the Textile Act and the Fur Act, the country of origin or place of manufacture must be disclosed with regard to imported merchandise.

Under each act the Commission is specifically authorized to make inspections and tests of merchandise subject to the requirements of the acts and regulations. It is also directed and authorized to issue rules and regulations which have the force and effect of law. Under the Textile Act these regulations include the establishment of generic names for manufactured fibers for use in disclosing fiber content information.

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<sup>8</sup> 15 U.S.C. § 68, 12 U.S.C. § 69, and 15 U.S.C. § 70, respectively.

Under the Wool and Fur Acts, when necessary in the public interest, the Commission may institute seizure or condemnation proceedings for misbranded merchandise. Under all three acts it may apply to the Federal courts for temporary injunction pending the completion of a Commission proceeding under which a cease-and-desist order is sought. Suits to collect civil penalties for violation of Commission final orders under these acts are also available. Willful violations are punishable also by misdemeanor proceedings brought by the United States in the Federal district courts.

Manufacturers and distributors of products subject to these acts may issue guaranties for the protection of their customers who rely in good faith upon representations made in connection with such guaranties.

Registered identification numbers are issued by the Commission to manufacturers and distributors for use on labels in lieu of their required name.

Flammable Fabrics Act, approved June 30, 1953, effective July 1, 1954<sup>9</sup>

The purpose of this statute is to afford the public protection from wearing apparel made of fabrics which are so highly flammable as to be dangerous. In the past, such fabrics have brought death or severe injury to many people.

A flammability test method is prescribed and apparel or fabrics which fail the tests are considered dangerously inflammable. It is forbidden by statute to introduce or place such merchandise on the market. In its administration of this act, the Federal Trade Commission is authorized to issue rules and regulations, to conduct tests, and to make investigations and inspections. The Commission is authorized to use its power under the Federal Trade Commission Act, including the cease-and-desist order process, in carrying out its responsibilities for enforcing the act. Offending goods found in the market may be seized and condemned through district court action brought by the Commission. Pending completion of proceedings for issuance of a cease-and-desist order against an alleged violator, the Commission may apply to the court for temporary injunction. Suits for violation of a final cease-and-desist order may be brought to recover civil penalties up to \$5,000 for each offense.

Manufacturers and distributors may guarantee their merchandise as having passed reasonable and representative tests for flammability. Members of the trade who rely in good faith upon these guaranties are afforded certain protection against prosecution. Willful violations of the act, whether in placing prohibited products on the market or in issuing a false guaranty, may be prosecuted by the Government as

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<sup>9</sup> 67 Stat 111.

misdemeanors. Upon conviction, fines up to \$5,000 or 1 year's imprisonment, or both, may be imposed by the court.

#### Regulation of Insurance—Public Law 15, 79th Congress<sup>10</sup>

This act was passed by Congress after the Supreme Court had ruled that the insurance business is subject to Federal jurisdiction under the commerce clause of the Constitution.<sup>11</sup>

Under this statute, the Federal Trade Commission and the Clayton Acts apply to the business of insurance to the extent that it is not regulated by State law.

#### Lanham Trade Mark Act, approved July 5, 1946<sup>12</sup>

This authorizes the Commission to proceed before the Patent Office for cancellation of certain trade-marks improperly registered or improperly used in competition, as provided in section 14 of this act.

#### Defense Production Act of 1950<sup>13</sup> and Small Business Act of 1953<sup>14</sup>

The former statute authorizes the Commission to make surveys at the request of the Attorney General to determine any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of administration of the Defense Production Act of 1950. The Chairman of the Commission, as provided in section 708, also is consulted regarding voluntary industry agreements and programs which the President is authorized to utilize to further the objectives of the act. Similar consultative responsibilities rest upon the Chairman of the Commission under section 217 of the Small Business Act. After agreements and programs have been subjected to this consultative review and have received official sanction, those participating are afforded immunity from the antitrust laws and the Federal Trade Commission Act.

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<sup>10</sup> Approved March 9, 1945, 59 Stat. 33. Effective June 30, 1948, see amendment approved July 25, 1947, 61 Stat. 448.

<sup>11</sup> *United States v. Southeastern Underwriters Association*, 332 U.S. 533, June 5, 1944.

<sup>12</sup> 60 Stat. 427.

<sup>13</sup> 64 Stat. 798.

<sup>14</sup> 67 Stat. 282.

## ADMINISTRATION

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The Executive Director, as the Commission's chief operating official, manages the Federal Trade Commission's activities to achieve effective and economic operations. He has responsibility for operational and administrative direction of all the Commission's bureaus and field offices. The Office of the Executive Director also includes the Office of Administration.

### OFFICE OF ADMINISTRATION

The Office of Administration gives policy guidance and general supervision to the management and organization programs, administrative services activities, and personnel programs of the Federal Trade Commission. The Office plans for effective organization and administration of the Commission's management programs, formulates and puts into effect basic administrative policies, and develops long-range plans relating to needs for personnel, space, supplies, equipment, etc. The Office of Administration includes the Division of Personnel, the Division of Management and Organization, and the Division of Administrative Services.

#### Division of Personnel

The Division of Personnel initiates, develops, administers personnel policies and programs in the spheres of recruitment, appointment and placement, training, position classification, performance evaluation, employee relations, health and welfare.

During fiscal year 1960, this Division instituted an honors graduates program, designed to augment the Commission's legal staff through recruitment of outstanding law school graduates. Under this program, higher entrance salaries were offered to those graduating in the upper 10 percent of their class. Thirteen honors graduates were appointed, representing 11 law schools.

In a further effort to attract the best available legal talent, the Commission inaugurated a summer intern program, under which 10 outstanding students were recruited for summer employment on completion of their second year in law school. Nine of the Nation's leading law schools were represented in this program.

## Division of Management and Organization

The Division of Management and organization conducts management surveys and recommends and installs management reports, procedures, and establishes staffing patterns that enable the Commission to operate more efficiently and effectively.

This Division also prepares analyses of the Commission operations for the use of the Commission.

## Division of Administrative Services

The Division of Administrative Services is a central administrative unit established for the purpose of publishing material made public under section 6(f) of the Federal Trade Commission Act; for the procurement of supplies and equipment; and for supplying other services essential to the functioning of the Federal Trade Commission. The Commission's Library is also located in this Division.

## Publication Branch

This Branch of the Division of Administrative Services clears for format, economy of reproduction, and distribution, all material printed or duplicated by the Federal Trade Commission within the limitations of the laws and regulations as applicable thereto. This Branch also operates a class A printing plant established under the provisions of the regulations by the Joint Committee on Printing of the U.S. Congress; and provides photographic, photostat, and drafting services. These services are performed by the following sections:

The Stenographic and Composition Section edits, for format and typography, material to be printed at the Government Printing Office or printed or duplicated in the Federal Trade Commission Printing Plant, and provides stenographic services when bureau pools are overburdened. During fiscal year 1960 over 5,200 pages of copy were produced by this activity for lithographic reproduction in the printing plant.

The Photographic Section provides the Commission with photographic, Copy Flo, and Photostat services for use in connection with the Commission's legal proceedings and economic reports. Production reports for this section show that over 277,000 photographic and Photostat and Copy Flo prints were produced during fiscal year 1960. This represents an increase of 35,000 items over 1958.

Functions of the printing plant are the printing of the Commission's orders, press releases, legal and economic reports, speeches, trade practice rules, pamphlets, forms, letters, etc. Production during the fiscal year 1960 was more than 12,400,000 lithographed impressions. This is an increase of 2,070,000 over fiscal year 1959.

## Library

The Library consists of a specialized collection of more than 100,000 bound volumes and extensive vertical files containing approximately

40,000 legislative documents and statistical publications organized for easy accessibility. In addition, there are several thousand current issues of legal, economic, and technical periodicals which collect annually from the inflow of more than 200 titles on a daily, weekly, monthly, or other frequency basis. These, too, become volumes, at the end of each year when single numbers of selected titles are collected and bound.

The demand for reference and research increased during fiscal 1960, as did also the use of books and materials. Approximately 58,000 reference questions were answered during the year, and more than 75,000 books and other materials were loaned outside the Library. Numerous requests were received from public sources for bibliographies compiled in the Library.

#### Procurement and Services Branch

This Branch of the Division of Administrative Services is responsible for providing services and controls in the necessary housekeeping functions as follows: Procurement and maintenance of supplies, equipment, furniture, etc.; space control and building maintenance; communications including mail, telephone and telegraph, and messenger.

### OFFICE OF THE COMPTROLLER

The Office of the Comptroller includes the Division of Budget and Finance and the Division of Financial Statistics, thus placing all budget, fiscal, machine tabulation, and financial statistics in one office.

#### Division of Budget and Finance

The Division of Budget and Finance is responsible for the preparation and administration of the Commission's budget and maintains the fiscal records of the Commission. This office maintains salary, savings bonds, tax, social security, retirement, and annual and sick leave records for all employees of the Commission, including the field offices. This Division performs the audit, prior to payment, of all vouchers covering payment for travel expense, communications, and supplies and equipment. The Fiscal Section maintains the various ledgers and records necessary to reflect the financial position of the Commission at all times and prepares the various financial statements and reports required by the Commission, the Bureau of the Budget, the Treasury Department, the General Accounting Office, and the Congress.

#### Division of Financial Statistics

The Division of Financial Statistics has been responsible since 1947 for summarizing, for each calendar quarter, uniform, confidential financial statements collected from a probability sample of all enterprises classified as manufacturers, except newspapers, which are

required to file U.S. Corporation Income Tax Form 1120. The quarterly summaries, entitled Quarterly Financial Report for Manufacturing Corporations, are published by the Government Printing Office and sold by the Superintendent of Documents.

The purpose of this sample survey is to produce, each calendar quarter, an income statement and balance sheet for all manufacturing corporations, classified by both industry and asset size. (Corporations account for more than 95 percent of total receipts from all manufacturing activity in the United States; manufacturing corporations account for more than half of all corporate profits.)

In the published summaries, profits per dollar of sales and rates of profit on stockholders' equity are shown each quarter for each of 60 industry and size groups of manufacturing corporations. Also shown each quarter are 45 income statement and balance sheet items, and as many financial and operating ratios, for each of 45 industry and size groups of corporate manufacturers.

The quarterly summaries are used by various agencies in the executive and legislative branches of the Federal Government to analyze current business conditions, evaluate the current financial position of small business, estimate net income in national income statistics, estimate current tax liability and future tax receipts, and determine current monetary and credit policy.

The quarterly summaries are also used by thousands of nongovernment subscribers. Executives, for example, use the quarterly summaries to measure efficiency and appraise costs by comparing a company's operating results with the average performance of companies of similar size or in the same line of business, to determine whether to undertake new ventures by comparing the profitability of various types of business activity, and as a guide to the relative movement of sales and profits in order to reduce controversies in wage negotiations.

#### OFFICE OF THE SECRETARY

The secretary and his immediate office receive and handle mail on all phases of the Commission's work. He signs all orders and certain other official papers. He also is responsible for liaison with the Congress and Government agencies and for decisions on informal cases not submitted to the Commission.

The assistant secretary for minutes takes the minutes of, and records the executive meetings of the Commission, prepares directives for the signature of the secretary, and keeps the calendar of pending matters.

#### Legal and Public Records

The Office of the Assistant Secretary for Legal and Public Records embraces the Legal Research and Reporting Section, Formal Docket Section, Public Reference Section, and the Distribution Section.

### Legal Research and Reporting Section

This Section is responsible for the preparation and publication of the volumes of the Federal Trade Commission Decisions and its Statutes and Court Decisions, the latter including court decisions in Commission cases; for the codification and editorial preparation of various Commission material published in the Federal Register; for the collection and dissemination of relevant court decisions.

### Formal Docket Section

The Formal Docket Section is responsible for the establishment, management, safety, completeness and accuracy, uses and retirement of the legal and related records of the Commission.

### Public Reference Section

The Public Reference Section furnishes information and assistance to the public, and to the staff of the Commission in relation to public, legal, and court proceedings, and in matters of related procedure. The Section is responsible for the custody, location, safety, conditions, etc., of dockets, files, exhibits, etc.

### Distribution Section

The Distribution Section controls the supply and distribution of all publications issued by the Commission, such as economic reports, annual reports, trade practice rules, Statutes and Court Decisions, etc.

### Public Information

This office issued a total of 1,265 press releases during fiscal year 1960, compared with 1,309 in fiscal 1959. They covered news of Commission complaints, answers by respondents, initial decisions, orders, and compliance actions. In addition, many oral and written inquiries from the press and public were answered each day.

FEDERAL TRADE COMMISSION

ORGANIZATIONAL CHART - SEE IMAGE

## INVESTIGATION

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Information developed by the Commission in the course of investigations is confidential, except as may be disclosed by the Commission in accordance with procedural and statutory safeguards. The results of investigations are generally disclosed in the form of complaints, orders, or negotiated stipulations, as summarized elsewhere in this report. Every such action, by way of stipulation, complaint, or order, is predicated upon a record of investigation showing whether there was reason to believe that laws administered by the Commission had been violated.

The Commission utilizes a number of different methods for gathering information in its investigations. The investigational method or methods adopted in a particular matter will depend in large measure upon the character of the case, the nature of the information being sought, and the attitude of the concern being investigated.

In certain cases review and analysis of statistical and other material contained in financial or trade publications provide information helpful in determining whether a matter should be entered for investigation. In the case of mergers or acquisitions the fact that the transaction is contemplated or consummated is usually ascertained from such sources. In the field of false and misleading advertising the Commission regularly and continuously reviews magazines, newspapers, and radio and television scripts or broadcasts to detect questionable representations. Information thus developed serves other purposes, but is mainly used in determining whether to initiate investigation.

Correspondence is frequently employed to initiate and, in some cases, to conduct the full investigation. Where cases are susceptible of handling in this manner, substantial savings in cost may be achieved.

The more usual method of gathering information is through personal visitation by attorneys assigned to one of the Commission's 10 field offices. The field attorneys call on concerns being investigated and other persons or concerns having knowledge of pertinent facts, to secure information through interrogation and examination of records. Investigational subpoenas, when used, are normally made

returnable before the investigating attorney. Corporations being investigated may also be required to furnish special reports with respect to their business practices and conduct, or may be required to grant the investigator access to examine and copy material from their records.

It is the Commission's policy to encourage voluntary cooperation in its investigations, compulsory processes for production of information or records being used only as necessary to avoid undue delay or to serve the public interest.

Most investigations grow out of letters of complaint from members of the public who feel that they have been misled or deceived, or from businessmen who believe they are being victimized by unfair or discriminatory practices of competitors. All potential matters for investigation, whether arising from complaint letters or from other sources, are carefully screened to eliminate those which are of a borderline or trivial nature, and those which involve primarily questions of private controversy as distinguished from matters of substantial public interest.

Effective liaison is maintained, in restraint of trade matters, with the Antitrust Division of the Department of Justice, and, in deceptive practice matters, with the Post Office Department and the Food and Drug Administration of the Department of Health, Education, and Welfare, and with other governmental agencies as appropriate, to avoid unnecessary duplication of effort and to cooperate in matters where the agencies possess concurrent or closely related jurisdiction.

During fiscal year 1960, the investigational bureau of the Commission received a total of 5,930 complaint letters, 1,530 more than the 4,400 received in fiscal 1959. Alleged restraints of trade were involved in 1,042 and deceptive practices in 4,888. These complaint letters resulted in the scheduling for investigation of 1,912 matters, approximately double the 975 scheduled during the previous year. Of the 1,912 matters scheduled for investigation, 770 dealt with alleged restraints of trade, and 1,142 with alleged deceptive practices.

Investigations completed during fiscal 1960 numbered 1,090, of which 271 were restraint of trade investigations and 819 were deceptive practice investigations. Aside from the more important matters which resulted in issuance of complaints or negotiation of stipulations, as separately reported, a total of 90 investigations terminated during the year were on the basis that the questioned practices had been discontinued.

Prompt investigative action was taken during the year with regard to "payola," or the practice of phonograph record distributors to make secret payments to diskjockeys as an inducement for them to exaggerate the popularity of records. From investigations initiated beginning in mid-November of 1959, the Commission had issued a

total of 98 formal complaints regarding this practice by the end of the fiscal year in June of 1960.

Confronted during the year with situations requiring such action, the Commission exercised its authority to require special reports from corporations in approximately 450 instances. This method of investigation was utilized with respect to 113 suppliers of groceries who were known to have participated in extraordinary sales sponsored by chainstore customers. Similar reports were required during the year from 205 chain and cooperative store organizations to determine whether they had induced or received discriminatory advertising or promotional allowances violative of the Clayton Act.

The procedure of requiring special reports was utilized, beginning in April of 1960, with regard to alleged discriminatory practices involving payment of unlawful brokerage fees where no services were rendered by the broker, in connection with operations of 118 shippers of Florida citrus fruit. Based upon information thus elicited, 41 formal complaints had been issued by yearend, charging violation of the brokerage provisions of the Clayton Act. Those reports also gave rise to initiation of 26 additional inquiries involving other alleged law violations by brokers or distributors of food.

In the area of alleged deceptive business practices, matters receiving particular investigative attention during the year included false and misleading advertising of food and drug products, deceptive product demonstrations via television broadcasts, fictitious pricing of a variety of commodities, and general misrepresentation of consumer goods, such as electrical appliances, home improvements, encyclopedias, automobiles, lawnmowers, correspondence courses, rugs, and watches.

In addition to investigation of indicated initial law violations, the investigative staff of the Commission conducts inquiries, as outlined or instituted by Compliance Division, to determine the manner and form of compliance with Commission orders to cease and desist, and assembles evidence to support civil penalty or contempt proceedings as appropriate.

The investigations are performed under the supervision of the Bureau Director and the guidance of the Chief Project Attorney, his staff of project attorneys, and the attorneys in charge of the Commission's branch offices. Specialized functions are performed by the Division of Textiles and Furs, the Division of Accounting, the Division of Scientific Opinions, and the Legal Adviser in charge of investigating mergers.

## MERGER INVESTIGATIONS

The Bureau of Investigation has the responsibility for examining all mergers and acquisitions of which it has knowledge by corporations subject to the Commission's jurisdiction. It identifies those which

appear to be significant from the standpoint of a possible violation of the antimerger law, section 7 of the Clayton Act, as amended, and conducts investigations to determine the probable competitive effects of those deemed significant. A group of attorneys, economists, statistical clerks, and others in the Bureau, under the supervision of a Legal Adviser, devote substantially all their time to merger investigational work.

There is no legal requirement on corporations to notify the Commission of a merger or acquisition either before or after its consummation. Except in instances where a complaint is received about a particular merger, or where premerger consideration is requested, the Commission must rely on financial newspapers, trade journals, manuals of investments, and the like, for information that a merger has occurred or is contemplated. Each merger or acquisition coming to the Commission's attention is made the subject of an information sheet containing such basic financial and operational data regarding the corporations involved as is readily available from recognized reference manuals. In fiscal 1960, 1,040 information sheets were prepared. All mergers and acquisitions so recorded are examined by project attorneys in the Bureau who, after consulting staff economists and other experts and evaluating readily available data, recommend whether further investigation should be undertaken.

If the preliminary review of a particular merger indicates that it is one likely to have the effects proscribed by the statute, a more comprehensive investigation is undertaken. Such an investigation may be, and most of them are, initiated by letters requesting the parties to submit detailed information concerning the companies and industry or industries involved, or by referring the matter to a branch office for interview with officials of the merging companies. The data obtained from the companies involved usually are supplemented by data from other sources, including competitors, suppliers, and customers of the merging companies, trade associations, and Government agencies. In fiscal 1960, 41 new merger investigations were initiated. In addition, 86 acquisitions by corporations already under investigation for earlier acquisitions were considered. Among the investigations in progress during the year were acquisitions by the following corporations:

- ABC Vending Corp.
- Simpson Timber Co.
- Warner Co.
- Crane Co.
- Continental Baking Co.
- Campbell-Taggart Associated Bakeries, Inc.
- Permanente Cement Co.
- Union Bag-Camp Paper Corp.

Minnesota Mining & Manufacturing Co.  
Inland Container Corp.  
Kaiser Steel Corp.

The Commission has issued its complaint against each of these corporations charging that the effect of the acquisition or acquisitions may be substantially to lessen competition or to tend to create a monopoly. At the end of the fiscal year, 86 merger investigations were in progress. These involved corporations in many different industries, including food and kindred products, textiles and apparel, steel and steel products, petroleum, chemicals and allied products, paper and paper products, and mining.

Investigations to determine the probable competitive effects of mergers and acquisitions are more time consuming, expensive, and complex than most other investigations conducted by the Commission. The investigations generally are made shortly after the mergers are consummated and before any adverse effects have resulted. It is necessary, therefore, to determine what is likely to happen in the future rather than what has actually happened since the acts were done. The basic factual questions to be resolved in a section 7 investigation are essentially economic in character. Despite their complexity, it is essential that these investigations be conducted as expeditiously as possible to minimize the possibility that the assets and operations of the merging companies may become so intermingled as to make difficult or impossible an effective order of divestiture.

Under the Commission's premerger clearance procedure, interested parties may request advice of the Commission concerning a proposed merger or acquisition. Facts relating to the proposed transaction may be submitted in writing or in conference. On the basis of these facts, as well as other information available to the Commission, the parties are informed whether or not consummation of the merger would likely result in further action by the Commission. Numerous conferences between members of the Bureau's staff and parties contemplating a merger were held during the year.

## DIVISION OF SCIENTIFIC OPINIONS

This Division furnishes the Commission's legal staff with scientific facts and opinions concerning the composition and efficacy of foods, drugs, medical devices, cosmetics, and related commodities where questions of science arise in regard to advertising claims. It arranges for analyses or other tests of products under investigation and gathers information on their composition, nature, effectiveness, and safety. The Division provides scientific opinions and information needed in (1) considering matters under investigation, (2) negotiating stipulations, and (3) preparing complaints. It also assists the Commission's legal staff in preparing for hearings involving questions of science and secures the services of expert scientific witnesses.

Fiscal year ended June 30, 1960

Number of written opinions rendered	304
Number of oral opinions rendered	285
Number of analyses and tests	5
Number of hearings attended	28
Number of stipulation conferences attended	2
Number of expert witnesses secured	22

The written opinions rendered involved the following:

Foods	41
Drugs	128
Cosmetics	17
Devices	67
Economic poisons	23
Miscellaneous	28

On July 1, 1959, there were 50 requests for scientific and medical opinions awaiting study and report in the Division, and on June 30, 1960, the number pending was 64. On June 30, 1960, there were outstanding 25 formal complaints involving matters in which the Division was expected to furnish advice to Commission attorneys and to obtain expert scientific and medical witnesses.

The opinions rendered dealt with many kinds of foods and beverages, vitamin preparations, cough and cold remedies, analgesics, skin preparations, sunburn preventives, hair and nail preparations, dentifrices, feminine hygiene products, trusses, hearing aids, shoes and wearing apparel for which health claims were made, cigarettes, insecticides, disinfectants, bleaches and cleansing products, and many other preparations and devices. Continued attention was given to preparations offered for the treatment of arthritis, rheumatism, and related conditions and to products and devices for the treatment of obesity. A substantial number of matters involved the advertising used to promote the sale of contact lenses.

Many of the matters referred to the Division for scientific opinion are complex and difficult to resolve. Increasingly the advertising under investigation involves drugs, cosmetics, and devices regarding whose virtues and limitations the published medical and scientific literature provides, at most, only fragmentary and inconclusive information. Consequently, the Division must locate and confer with the medical specialists and other scientists who have firsthand knowledge of the therapeutic and other properties of the drugs, cosmetics, and devices. Authorities in a particular field when contacted may characterize the available scientific information as preliminary and inconclusive, but having had no actual experience with the product in question they are unable to state categorically that the advertising claims are false. In such cases the only hope of accurate appraisal and, where necessary, effective regulation of the advertising, is to have

the products tested clinically. It is becoming increasingly necessary to have such tests made in order to appraise accurately the advertising for specific products.

### DIVISION OF ACCOUNTING

This Division furnishes accounting services in connection with the investigation and trial of legal cases and in general economic investigations.

The Division prepares accounting analyses and studies of the pricing policies of respondents or proposed respondents in connection with the Commission's law enforcement work in regard to (1) alleged price discrimination under section 2 of the Clayton Act, as amended by the Robinson-Patman Act; (2) cost data submitted by respondents in justification of alleged price discrimination under the Robinson-Patman Act; (3) alleged price fixing in cases arising under section 5 of the Federal Trade Commission Act; and (4) alleged sales below cost in violation of section 5 of the Federal Trade Commission Act.

It also compiles production and sales statistics and analyzes financial data of companies involved in mergers under section 7 of the Clayton Act. It also compiles statistics concerning the financial position and operating results of companies under section 6 of the Federal Trade Commission Act.

During the year, accounting services were furnished in connection with 94 legal cases and investigations. These included 65 Robinson-Patman cases, 16 other Clayton Act cases, and 13 section 5 Federal Trade Commission Act cases.

During the year a study was made of the profitableness of identical companies in each of 24 selected manufacturing industries for the years 1940, 1947-58, and also for the 12 largest companies in each of 39 industries for the years 1957 and 1958. A report on this study was submitted to and approved by the Commission and ordered published.

During the year, accounting services were also furnished in connection with inquiries being conducted by the Subcommittee on Antitrust and Monopoly Legislation, Senate Committee on the Judiciary. The Commission furnished the committee with information concerning the profitableness of companies in a number of major industries.

### DIVISION OF TEXTILES AND FURS

This Division is generally charged with the administration and enforcement of four separate and distinct pieces of consumer legislation—the Wool Products Labeling Act of 1939, the Fur Products Labeling Act of 1951, the Flammable Fabrics Act of 1953,

and the Textile Fiber Products Identification Act of 1958 which became effective March 3, 1960. Under each of these acts the Commission has issued rules and regulations which have the force and effect of substantive law.

The Wool, Textile, and Fur Acts require content disclosure on labels, as well as other important factual information. In addition, the Textile and Fur Acts require truthful invoicing and advertising of products subject to their terms. The Flammable Fabrics Act protects consumers by prohibiting the marketing of dangerously flammable wearing apparel and fabrics for use therein.

By carefully examining content labels on products, consumers are afforded the protection of knowing what they are buying. This is the primary purpose of these laws. Of almost equal importance is the protection they afford honest businessmen from unfair competition.

To assist consumers and businessmen alike in intelligent purchasing, the Rules and Regulations under the Fur Act contain a Fur Products Name Guide, which sets out the true English name of the animal producing the fur. In addition, the Regulations under the Textile Act contain a list of 16 generic names for manmade fibers, which serve as common denominators for the hundreds of synthetic fibers currently offered for sale to the consuming public. The Division also maintains a public register of continuing guaranties filed with the Commission under the four acts. These guaranties protect prospective purchasers from misbranded products. The Division also issues registered identification numbers to companies who do not wish to reveal their sources of supply to competitors.

In administering these laws, the Division plans and supervises nationwide industry counseling and compliance inspection programs. Through industry counseling, the Division seeks to obtain voluntary compliance with the law. Full-time textile and fur investigators conducting compliance inspections point out violations to responsible parties, and, where possible, effect on-the-spot corrections of minor deficiencies. When voluntary compliance cannot be obtained, the Division recommends formal corrective action against responsible parties. Willful violators are subject to criminal prosecution.

During fiscal 1960, by far the major emphasis of the Division's work has been placed on preparation for the enforcement of the new Textile Act. The scope of this act is greater than the combined scope of the other three acts administered by the Division. Over 100 different industries are engaged in the manufacture of textile products. Sales of such products run high into the billions of dollars annually.

Because the act became effective during the present fiscal year, the Division received thousands of requests for copies of the new textile rules and regulations, interpretations and opinions, applications for

registered identification numbers, and continuing guaranties. The table below clearly indicates the volume of work handled by the Division during fiscal 1960.

Division of Textiles and Furs workload statistics, fiscal 1960

	Wool	Fur	Flammable fabric	Textiles	Sec. 5 FTC Act
Commercial establishments covered by industry compliance investigations	676	413	813	46	-----
Products examined (sampling method in all cases except fur) -----	2,839,837	47,305	8,851,129	2,934,968	-----
Advertisements examined -----	2,549	27,491	-----	7,965	-----
Formal complaints recommended ---	<sup>1</sup> 35	44	-----	-----	3
Stipulations recommended -----	15	20	-----	-----	-----
Compliance investigation of concerns under cease and desist order or stipulation -----	89	-----	-----	-----	-----
Matters disposed of by acceptance of assurances of discontinuance -----	165	-----	-----	-----	-----
Interpretations and opinions rendered	-----	<sup>2</sup> 70,037	-----	-----	-----
Registered numbers assigned -----	356	150	-----	12,031	-----
Continuing guarantees accepted ----	1,112	573	554	12,765	-----
Laboratory tests completed -----	527	2	42	28	<sup>3</sup> 39
Correspondence (incoming) -----	-----	45,350	-----	-----	-----
Correspondence (outgoing) -----	-----	47,655	-----	-----	-----

<sup>1</sup> Includes 12 charging violations of sec. 5, FTC Act, and 1 charging Fur Act violations.

<sup>2</sup> Approximately 80 percent of which concerned the Textile Act.

<sup>3</sup> Miscellaneous.

As can be seen from the table, over 70,000 requests for interpretations and opinions were received during the year, at least 80 percent of which concerned the new Textile Act. This compares with a figure of approximately 17,500 similar requests received during fiscal 1959. Registered identification numbers issued during fiscal 1960 approximated 12,500 as compared with 1,500 during fiscal 1959. Over 15,000 continuing guaranties were accepted and filed during the year as compared with 2,400 during fiscal 1959.

Because of the large number of requests for interpretations of the new textile regulations, the Division prepared and distributed to thousands of concerns handling textile products two instruction sheets setting out "do's and dont's" in textile labeling and advertising which clarified industry's responsibilities under the new law. In addition, a pamphlet containing 106 questions and answers relating to the Textile Act, and 1 containing illustrations of acceptable labels, invoices, and advertising were prepared and distributed to thousands of interested parties throughout the country.

It should also be pointed out that the Division's screening laboratory was enlarged during fiscal 1960, and as a result, the number of tests conducted increased to 638 as compared with 484 during fiscal 1959.

Fur violations in the meantime increased. Toward the latter part of the fiscal year, numerous instances of tip-dyed and blended furs being marketed without disclosure of such fact were reported to the Division by reputable furriers who were suffering because of this unlawful practice. The Division immediately began making plans

for a full-scale investigation of the alleged violation, and during the coming fiscal year will take corrective action where necessary. Complaints involving fictitious pricing of furs indicate that this is still an area where more inspection and investigation work is needed.

Although no unusual problems concerning Wool Act violations arose during the year, the Division continued to work closely with the Bureau of Customs concerning misbranded wool products being imported into the United States. The number of recommendations for formal corrective action under the Wool Act was approximately the same as during fiscal 1959.

The Division continues to receive occasional complaints involving flammable fabrics, but close surveillance over those segments of industry that might normally produce potentially dangerous products has kept such complaints at a minimum. The number of inspections of imported products which are potentially dangerously flammable increased—particularly on the west coast.

In addition to the above, the Division continued to furnish the Commission and its staff with legal and technical advice in connection with the enforcement of the respective statutes. During the year when it became apparent that a few of the new textile rules should be amended, recommendations along with proposed drafts of amendments were submitted by the Division to the Commission. During the latter part of the fiscal year, preliminary conferences with various segments of the fur industry were begun for the purpose of considering constructive amendments to the fur regulations and name guide.

## LITIGATION

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The Commission's orders to cease and desist from violations of the trade regulation statutes it administers are the end result of the legal casework of the Bureau of Litigation. This Bureau is responsible for the preparation and trial of cases designed to halt a vast variety of monopolistic and deceptive practices. Trial attorneys on its staff prosecute cases against such monopolistic and anticompetitive practices as price fixing, boycotts, exclusive dealing, mergers and discriminations in prices, allowances or services, as well as such deceptive practices as false advertising and misbranding of all sorts of products.

Bureau trial attorneys analyze facts developed in investigations conducted by the Bureau of Investigation, research the applicable law, and make recommendations to the Commission for issuance of formal complaints where warranted by the facts and the law.

Once a complaint is issued by the Commission charging a violation of law, Bureau attorneys handle the trial before a hearing examiner, as well as appeal proceedings before the Commission. Although Commission proceedings are in the realm of administrative law, hearings to develop the facts are similar to court trials, and Bureau attorneys perform the usual functions of trial lawyers. They engage in legal research, prepare trial briefs and other necessary legal documents, participate in conferences with parties, witnesses, and counsel for the party charged, participate in settlement negotiations and other pretrial proceedings, conduct hearings, prepare briefs, and present oral argument. In the course of trial before a hearing examiner, they examine witnesses and introduce documentary evidence, cross-examine defense witnesses and otherwise support the allegations of the Commission's complaint. The trial attorney has the job of establishing during trial the factual and legal record on which cases ultimately stand or fall. It is this record on which the Commission must base its findings of fact, conclusions of law, and appropriate order.

The work of the Bureau is supervised by a Director and an Associate Director, who are assisted by two Assistant Directors. In addition, there are several legal advisers who provide advice and assistance to the Bureau heads, as well as the trial staff, at all stages of the litigation

process. The legal advisers serve as trial attorneys in cases of major importance involving a high degree of complexity and difficulty.

As of July 30, 1960, the Bureau had a staff of 68 trial attorneys, 2 economists, plus some 27 secretarial, stenographic, administrative, and clerical employees.

### CASE WORK IN 1960

The number of complaints and orders issued against illegal business practices reached record heights during the fiscal year 1960. An increase of 44 percent over fiscal year 1959 was achieved in the number of complaints issued, and there was a moderate increase in the number of cease-and-desist orders issued. The following table compares fiscal 1960 with three prior fiscal years:

Statistical summary and comparison, fiscal years 1957-60

	Antimonopoly cases				Deceptive practice cases				Totals			
	1957	1958	1959	1960	1957	1958	1959	1960	1957	1958	1959	1960
Complaints issued - - - - -	55	86	79 <sup>1</sup>	157	187	268 <sup>2</sup>	271 <sup>3</sup>	346 <sup>2</sup>	242 <sup>9</sup>	354 <sup>9</sup>	350 <sup>9</sup>	503 <sup>9</sup>
Orders to cease and desist	31 <sup>4</sup>	45 <sup>4</sup>	64 <sup>5</sup>	57 <sup>4</sup>	148 <sup>5</sup>	228 <sup>6</sup>	267 <sup>7</sup>	289 <sup>8</sup>	179 <sup>9</sup>	273 <sup>9</sup>	331 <sup>9</sup>	346 <sup>9</sup>

<sup>1</sup> In addition, there was an antimonopoly charge included in a deceptive practice complaint.  
<sup>2</sup> In addition, there were deceptive practice charges included in two antimonopoly complaints.  
<sup>3</sup> In addition, there was a deceptive practice charge included in an antimonopoly complaint.  
<sup>4</sup> In addition, there was 1 order partially disposing of a case.  
<sup>5</sup> In addition, there were 5 orders partially disposing of cases.  
<sup>6</sup> In addition, there were 7 orders partially disposing of cases.  
<sup>7</sup> In addition, there were 9 orders partially disposing of cases.  
<sup>8</sup> In addition, there were deceptive practice charges included in 2 antimonopoly orders. Also, there were 7 orders partially disposing of cases.  
<sup>9</sup> Totals do not include orders partially disposing of cases. See footnotes 4-8, above.

Statistics, however, tell only part of the story, and there follows a narrative statement indicating the scope and significance of the cases started or completed during the year.

### ANTIMONOPOLY CASES

As shown above, there were 157 complaints against monopolistic practices, almost double the 79 brought in fiscal 1959. A summary of the antimonopoly casework follows.

#### Merger Cases

With 11 new complaints issued during the year, an alltime high, merger cases continued to represent a substantial part of the Bureau's caseload. Five cases were brought to a conclusion with orders of divestiture, and 28 cases remained pending as of June 30, 1960. The cases involve mergers, acquisitions, and consolidations which may substantially lessen competition or tend to monopoly in violation of section 7 of the Clayton Act, as amended.

The five orders issued during the year covered such diverse products as salt, petroleum products, lake sand, aluminum florist foil, and

sporting goods. Two of the cases were terminated on the basis of consent settlements; the other three were tried before hearing examiners, with the Commission's decision being entered in each case after appeal.

Gulf Oil Corp., Pittsburgh, Pa. (docket 6689), was required to sell numerous properties owned by Warren Petroleum Corp., Tulsa, Okla., a wholly owned subsidiary which Gulf acquired and merged into itself in March 1956. The order requires divestiture of several subsidiary companies and divisions engaged in the wholesale distribution of liquefied petroleum gas; railroad tank cars owned or controlled by Warren; and three natural gas liquids plants.

The order also provides that for the next 10 years Gulf and Warren must sell or affirmatively make available to various classes of independent purchasers the same percentages of liquefied petroleum gas and natural gasoline which Gulf and Warren sold these same classes of independents during 1955. The order also imposes restrictions on further acquisitions by Gulf or Warren of ownership or control of natural gas liquids marketers.

Erie Sand & Gravel Co., Erie, Pa., (docket 6670), was ordered to divest itself of the assets it acquired by purchasing the Sandusky division of the Kelley Island Co. The Commission found that the acquisition tended to lessen competition substantially and to give Erie a monopoly in the sale of lake sand in the market area along the southern shore of Lake Erie from Buffalo, N.Y., to Sandusky, Ohio. This decision delineated important holdings on several issues under amended section 7 which had previously not been commented upon by the Commission.

Reynolds Metals Co., Richmond, Va., one of the Nation's major producers of aluminum, was ordered to sell Arrow Brands, Inc., Long Beach, Calif., a former customer purchased by Reynolds in 1956. The Commission held the effect of the acquisition "was to actually, seriously, and substantially lessen competition" in the production and sale of decorative aluminum foil to the florist trade. The product is used to decorate flowerpots and cut flowers.

Diamond Crystal Salt Co., St. Clair, Mich., one of the Nation's largest salt producers, consented to entry of an order requiring it to sell certain salt mining properties it obtained by acquiring Jefferson Island Salt Co., Louisville, Ky. Other principal provisions of the order are that for the next 10 years Diamond Crystal is forbidden to acquire any interest whatever in any producer or distributor of any form of salt and must make available to qualified salt producers 30 percent of the production of rock salt mined at its Jefferson Island, La., plant.

A. G. Spalding & Bros., Inc., Chicopee, Mass. (docket 6478), the Nation's second largest seller of athletic goods, was required to sell

Rawlings Manufacturing Co., St. Louis, Mo., a principal competitor it purchased in 1955 for nearly \$6 million.

Industries in which new merger complaints were issued during the year included such heavy goods industries as steel, cement, lumber, and plumbing and heating equipment, and also ranged from baked goods to paper products. The cases were as follows:

Kaiser Steel Corp., of Oakland, Calif., for acquiring a substantial portion of the voting stock of a competitor, Allison Steel Manufacturing Co., of Phoenix, Ariz. (docket 8027).

Permanente Cement Co. of Oakland, Calif., for the acquisition of Olympic Portland Cement Co. of Seattle, and Pacific Building Materials Co. and Readymix Concrete Co., both of Portland, Oreg. (docket 7939).

Warner Co. of Philadelphia, for its acquisition of Chester Materials Co., of Chester, Pa., and W. E. Johnson, Inc., of Paoli, Pa., competitors in the ready-mix concrete business (docket 7770).

Crane Co., of Chicago, for acquiring all or part of the stock or assets of five competitors in the production and distribution of plumbing and heating equipment and related products (docket 7833).

Simpson Timber Co., of Seattle, Wash., for its acquisition of M&M Woodworking Co., of Portland, Oreg., a competitor in the redwood lumber industry (docket 7713).

Continental Baking Co., of Rye, N.Y., the Nation's largest commercial baker of white bread, for its acquisition of Omar, Inc., of Omaha, Nebraska, and other bakeries (docket 7780).

Campbell-Taggart Associated Bakeries, Inc., of Dallas, Tex., the Nation's second largest commercial bakery, for its acquisition of numerous bakeries throughout the United States (docket 7938).

Union Bag-Camp Paper Corp., of New York City, for five acquisitions in various segments of the paper industry (docket 7946).

Minnesota Mining & Manufacturing Co., of St. Paul, Minn., for its acquisition of two competing distributors of electrical insulation products (docket 7973).

Inland Container Corp. of Indianapolis, Ind., the Nation's third largest shipper of corrugated shipping containers, for its acquisition of the Louisville, Ky., plant of the General Box Co. (docket 7793).

ABC Vending Corp., of Long Island City, N.Y., the Nation's largest commercial operator of motion picture theater vending concessions, for its acquisition of Confection Cabinet Corp., of East Orange, N.J., and of Charles Sweets Co. and Charles Sweets Concession Co., both of Philadelphia.

Of the 28 merger cases pending as the fiscal year ended, 25 were in various stages of trial; two had resulted in initial decisions which were

on appeal to the Commission; and one was awaiting decision by a hearing examiner.

### Robinson-Patman Act Cases

From a numerical standpoint, violations of section 2 of the Clayton Act, as amended by the Robinson-Patman Act, led the list of antimonopoly proceedings. Complaints issued during the year under this statute totaled 130, nearly double the number of complaints issued in fiscal 1959. There were 45 orders to cease and desist from Robinson-Patman Act violations.

This section of the act is designed to safeguard the competitive order against the effects of discriminations in price or discriminations in the payment for, or the furnishing of, services or facilities, such as advertising or promotional aids, as between competing buyers, as well as the payment or receipt of illegal brokerage fees or commissions.

### Price Discrimination Cases

Price discrimination cases under section 2(a) of the amended Clayton Act accounted for a substantial number of the antimonopoly cases on the litigation docket. There were 48 complaints and 7 orders to cease and desist involving 2(a) violations.

In addition, there were four complaints and one order against buyers for knowingly inducing or receiving discriminatory prices in violation of subsection 2(f) of the act.

The orders and complaints under these sections of the statute covered a variety of commodity fields.

Numerous cases were brought in various segments of the food industry. Seven proceedings involved bread, biscuits, cookies, crackers, and related items. Respondents in this category included Continental Baking Co., of Rye, N.Y., the marketer of Wonder Bread and Hostess Cakes; Huber Baking Co., Wilmington, Del.; Sunshine Biscuits, Inc., Long Island City, N.Y.; United Biscuit Co. of America, Melrose Park, Ill.; Austin Packing Co., Baltimore, Md.; Southern Bakeries Co., Atlanta, Ga.; and Robert A. Johnston Co., Milwaukee, Wis.

Several dairy companies were also cited for granting discriminatory prices, including Beatrice Foods Co., Inc., of Chicago, Ill., and H. P. Hood & Sons, of Boston, Mass.

Other complaints in the food field involved a large macaroni manufacturer, a canner of fruits and vegetables, and a distributor of dried peas and beans.

A wholesale distributor of coffee, tea, spices, extracts, and dried foods was ordered to stop discriminating among its customers in prices and promotional allowances.

In the related field of candy products, there were two orders and three complaints involving price discrimination. Orders were issued against Pangburn Co., Inc., of Fort Worth, Tex., and Elmer Candy Co., Inc., of New Orleans, La. New complaints cited Mason, Au & Magenheimer Conf. Co., Inc., of Long Island, N.Y.; New England Confectionery Co., of Cambridge, Mass.; and Frank G. Shattuck Co., of New York City.

The distribution of automotive parts and supplies and related products continued to be an active field for price discrimination litigation.

An order was issued prohibiting Heckethorn Manufacturing & Supply Co., of Dyersburg, Tenn., from charging competing customers different prices for its automotive shock absorbers, seat covers, and other products. Other sellers of automotive supplies cited in price discrimination complaints included Borge-Warner Corp., of Chicago; Purolator Products, Inc., Rahway, N.J.; Perfect Equipment Corp., Kokomo, Ind.; Perfection Gear Co., Harvey, Ill.; The Dayton Rubber Co., Dayton, Ohio; and American Ball Bearing Corp., of Brooklyn, N.Y.

In addition, the Commission continued to proceed against buyers of automotive supplies for knowingly inducing or accepting discriminatory prices from suppliers. An order to cease and desist from such violations of subsection 2(f) of the Clayton Act was entered by consent against Automotive Supply Co., of Altoona, Pa.

The use of so-called buying groups as a means of inducing discriminatory prices from suppliers was challenged in four complaints involving nearly 100 jobbers of automotive products and supplies. Complaints were issued as follows:

Automotive Jobbers, Inc., of Dallas, Tex., and 20 jobber members.

Ark-La-Tex Warehouse Distributors, Inc., of Paris, Tex., and 22 jobber members.

Southwestern Warehouse Distributors, Inc., of Dallas, and 34 jobber members.

Automotive Southwest, Inc., also of Dallas, and 15 jobber members.

Although these organizations purport to be the purchasers of their members' supplies, the complaints allege they are mere bookkeeping devices for facilitating unlawful price discriminations. They serve only as agents through which members are billed and pay for purchases, according to the complaints. In each case it is alleged that the jobbers unlawfully use their combined bargaining power to demand and get discounts not available to competitors.

Annual cumulative quantity discount systems were challenged as discriminatory in 10 complaints against leading rug manufacturers.

In the building materials industry, the Nation's largest asphalt roofing manufacturer and two other major companies were charged

with discriminating in price among their customers. The three cases involved Lloyd A. Fry Roofing Co., of Summit, Ill., the Logan-Long Co., and the Celotex Corp., both of Chicago. A further allegation in each of these complaints is that the companies sell below cost or at unreasonably low prices with the intent and effect of restraining competition in roofing products.

Other price discrimination complaints issued during the year involve Sperry Rand Corp., of New York City (typewriters and business machines); Cutter Laboratories, Berkeley, Calif. (biologicals, pharmaceuticals, and related products); Chemway Corp., Wayne, N.J. (Lady Esther cosmetics); and Byer-Rolnick Hat Corp., Garland, Tex., the third largest company in the hat industry.

Additional cease-and-desist orders issued during the year were against Westinghouse Electric Corp., of Pittsburgh, Pa. (major home appliances); General Natural Gas Corp., Monticello, N.Y. (bottled gas); and Pressman Toy Corp., New York City (toys).

### Discriminatory Promotional Allowances and Services

Continuing and increasing emphasis on the enforcement of the Robinson-Patman Act's prohibitions against discrimination in the granting of advertising and promotional allowances or services resulted in an unusual number of cases under sections 2(d) and 2(e) during fiscal 1960. Section 2(d) complaints numbered 44, and orders totaled 34; 4 complaints and 1 order were issued under section 2(e).

These subsections require that sellers paying customers for services and facilities, or furnishing services and facilities, must make them available to all competing customers on proportionally equal terms.

In addition to bringing numerous proceedings against sellers under these sections of the statute, the Commission moved also to prevent economically powerful buyers from knowingly inducing or coercing suppliers to grant them discriminatory promotional aids. Such a practice was alleged to be "unfair" under section 5 of the Federal Trade Commission Act. In five proceedings instituted during fiscal 1960, each such complaint was coupled with § 2(d), Clayton Act complaints against allegedly discriminating suppliers. These cases involved the following:

J. Weingarten, Inc., of Houston, Tex., a grocery supermarket chain operating in Texas, Louisiana, and Tennessee, along with eight typical suppliers of hosiery, cosmetics, paper products, toiletries, macaroni, and fruit.

Benner Tea Co., a retail grocery chain with headquarters in Burlington, Iowa, along with two typical suppliers of grocery products.

American Radiator & Standard Sanitary Corp., of New York City, a manufacturer of heating, cooling, plumbing, and kitchen equipment, along with two typical suppliers.

Individualized Catalogues, Inc., of New York City, an association of four toy wholesalers, along with seven toy manufacturers.

Foster Publishing Co., Inc., and Foster Type & Equipment Co., Inc., both of Philadelphia, Pa., along with five suppliers of printing equipment and supplies (three of whom subsequently agreed to consent orders prohibiting the practice).

Along similar lines, a complaint was issued charging that R. H. Macy & Co., Inc., of New York City, unlawfully pressured suppliers into contributing more than \$500,000 toward the cost of the company's 1958 centennial celebration. According to the complaint, nearly 600 Macy suppliers complied with its request for \$1,000 contributions. The complaint alleges that Macy used its vast purchasing power and prestige to force suppliers into making the payments, and that suppliers, for economic and business reasons, were relatively powerless to refuse to make the contributions. This practice of "a powerful buyer using the leverage of its purchasing power and position" to ask for and receive contributions, gifts, or donations from suppliers is alleged to constitute an unfair practice in violation of section 5 of the Federal Trade Commission Act.

Discrimination in the payment of promotional allowances by numerous leading publishers and distributors of magazines, paperback books, and comics was ordered terminated in 16 cases. Certain newsstand chains were alleged to have been granted promotional allowances not proportionally available to competitors.

In the tobacco products industry, five of the Nation's largest cigarette manufacturers and a cigar manufacturer were ordered to stop discriminating in the payment of advertising and promotional allowances. The cigarette companies are:

Liggett & Myers Tobacco Co., Inc., Philip Morris, Inc., and the American Tobacco Co., all of New York City; R. J. Reynolds Tobacco Co., Winston-Salem, N.C.; and Brown & Williamson Tobacco Corp., Louisville, Ky. The cigar manufacturer is Bayuk Cigars, Inc., Philadelphia, Pa.

Other orders barring discriminatory promotional or advertising allowances involved the following:

General Mills, Inc., of Golden Valley, Minn. (sponge products); Burlington Industries, Greensboro, N.C. (hosiery and textile products); Swanee Paper Corp., Ransom, Pa. (paper products); and Bercut-Richards Packing Co., Inc., Sacramento, Calif. (canned fruits, vegetables, and juices).

Additional new complaints issued under section 2(d) involved Plumrose, Inc., of New York City, an importer and distributor of Danish canned meats and vegetables; two distributors of appliances manufactured by Emerson Radio & Phonograph Corp.; and Anniston

Foundry Co., of Anniston, Ala., a manufacturer of cast iron soil pipe and fittings.

Fieldcrest Mills, Inc., of Spray, N.C., a manufacturer of rugs, carpets, blankets, bedspreads, sheets, and related products was ordered to cease and desist from violating both section 2(d) and section 2(e). New complaints alleging the furnishing of discriminatory services and facilities in violation of section 2(e) cited sellers of greeting cards, macaroni, shower curtains, soap, and cleaning products.

## Brokerage Cases

In its enforcement of section 2(c) of the Clayton Act, the Commission issued 41 complaints charging Florida packers of fresh citrus fruit with unlawfully paying brokerage to purchasers. Section 2(e) prohibits payment or receipt, directly or indirectly, of brokerage fees or commissions in transactions between a seller and persons or firms purchasing on their own account for resale.

According to the complaints, the packers sell oranges, tangerines, grapefruit, or other citrus fruit directly, and also through brokers who are paid a commission of a certain amount or percentage—typically 10 cents per 1 3/5 bushel box. Some of the brokers purchase for their own account for resale, and to these, as well as to some direct buyers, each packer allegedly pays brokerage or grants an allowance or discount in lieu of brokerage, in violation of section 2(c).

Seafood and canned fruits and vegetables were the commodities involved in other complaints charging sellers with making unlawful brokerage payments or granting discounts or allowances in lieu of brokerage.

Receipt of unlawful brokerage was also proceeded against during the year. For example, a large wholesale distributor of canned and packaged food was charged with receiving brokerage on its purchases of such products for resale. This was accomplished, according to the complaint, through a brokerage firm whose president and sole stockholder was also the president and sole stockholder of the wholesale distributor. Thus, because both the buyer and the broker were owned and controlled by the same individual, the complaint says, the receipt by either company or its owner of brokerage on the wholesaler's purchases violated section 2(c).

Cease-and-desist orders issued likewise covered both buyers and sellers in various phases of the food industry, including seafood and fresh and canned fruits and vegetables. Illegal payments, discounts, and allowances in lieu of brokerage were typically involved in the cases—for example, the granting to direct buyers of so-called trade discounts or price reductions which reflected brokerage.

## Restraint of Trade Cases

The 1960 antimonopoly docket included numerous cases prohibiting or challenging a variety of practices in restraint of free and fair competition. Most of them were brought under section 5 of the Federal Trade Commission Act, which prohibits "unfair methods of competition" and other "unfair" acts and practices, but section 3 of the Clayton Act, forbidding exclusive dealing arrangements injurious to competition, was also invoked.

An important restraint-of-trade case in which an order was issued was a proceeding prohibiting one of the largest suppliers of automobile seat covers in the country from entering into monopolistic exclusive dealing contracts or illegal price-fixing agreements with its independent retail dealers. The respondent in this case was Rayco Manufacturing Co., Inc., of Paramus, N.J.

The order was issued with the consent of Rayco in settlement of a complaint charging violation of both section 5 of the FTC Act and section 3 of the Clayton Act. Under the order, in selling automobile seat covers, convertible tops, mufflers, or other products, Rayco must not impose any conditions limiting the freedom of purchasers to sell or advertise products supplied by competitors. Rayco must also stop carrying out price-fixing and price-maintenance conspiracies with its dealers, requiring them to enter into such conspiracies among themselves or enforcing any such restrictive agreements or arrangements by oppressive contractual terms or by "policing." The complaint had challenged provisions of Rayco's standard dealer franchise agreement forbidding independent dealers to handle auto seat covers, convertible tops, mufflers, or other products supplied by Rayco competitors. It further charged that the company fixed resale prices and discounts and required its dealers to adhere to them. Not only were Rayco's competitors foreclosed from making sales to the dealers, according to the complaint, but competition among the dealers was also suppressed.

The order bars Rayco from requiring its dealers, in furtherance of illegal price-fixing and exclusive dealing arrangements, to carry a full line or any specified quantity of Rayco products; to refrain from independent advertising; to enter into cooperative advertising of prices with other purchasers; to acquiesce in price advertising undertaken by Rayco; or to pay an advertising assessment to Rayco.

The order is also directed against contractual provisions empowering Rayco arbitrarily to terminate dealer contracts or to restrict the future business activity of terminated dealers. The complaint had alleged that these provisions caused Rayco dealers to be "subservient" to Rayco in the conduct of their business. Also forbidden is any policing, intimidation, or coercion designed to enforce any of the requirements prohibited by the order.

Photostat Corp., of Rochester, N.Y., the Nation's largest seller of photographic copying machines and supplies, was ordered to stop using illegal inducements and unreasonable tying arrangements to sell supplies to owners and operators of the machines. The consent order in this case was in settlement of a complaint charging the company with using its dominant position to monopolize the sale of photocopy paper and chemicals by imposing unreasonable tying arrangements on Photostat machine owners.

The company is prohibited from giving or offering preferential repair and maintenance service to machine owners purchasing all, or substantially all, of their photocopy supplies from Photostat. Also, Photostat must not refuse to sell or restrict the sale of repair parts, accessories, or equipment to competitors as a means of inducing machine owners to purchase supplies from it.

Five manufacturers and marketers of tackless carpet gripper and other products used in laying wall-to-wall carpeting were ordered to stop conspiring to fix prices and otherwise restrain trade. The order is directed against the Roberts Co., City of Industry, Calif., two affiliated companies and two New York manufacturers. The Commission found a dual conspiracy under the aegis of the three affiliated Roberts companies. It held that the Roberts companies had conspired with patent licensees to lessen or eliminate competition in various ways, including price fixing and intimidation and coercion of unlicensed competitors. It concluded further that the Roberts companies had engaged in a price-fixing conspiracy with their 146 distributors.

The Commission condemned the use by the Roberts respondents of the "threat or institution of patent infringement suits as a device for the implementation of a conspiracy to lessen or eliminate competition \* \* \*." It also barred Roberts from granting, continuing or enforcing any license agreement beyond, the expiration date of the patent.

Another restraint of trade case was concluded during the year with the entry of an order requiring three franchised wholesale distributors of General Motors diesel engines and replacement parts to stop conspiring to fix or maintain prices or selling conditions for the parts. (A similar order had been issued previously against five other wholesalers, based on consent agreements.)

A somewhat novel proceeding was terminated when the Procter & Gamble Co. and its wholly owned distributing subsidiary consented to an order forbidding them to enter into unlimited exclusive contracts with manufacturers of automatic washing and dishwashing machines to pack samples of P & G soap detergents or bleaches in the appliances. The complaint challenged P & G's exclusive sampling contracts with every domestic manufacturer of automatic washing machines for jointly promoting the machines and the P & G detergents

Tide and Dash. The complaint charged that these contracts and related contracts and practices illegally restrained trade by foreclosing competing detergent manufacturers from engaging in free sampling contracts and from receiving the prestige of endorsements at both the manufacturer and the retail and demonstrator level. P & G is the Nation's largest producer of soaps, detergents, bleaches, and cleansers and a major factor in many other fields. It is also the Nation's largest advertiser and has annual sales of nearly \$1½ billion.

(The restraint of trade charges were coupled with allegations of false and misleading advertising in connection with the sampling and promotional program.)

Seafood was the subject of several antimonopoly proceedings during the fiscal year.

Two Maryland clam digger associations consented to an order forbidding them to fix or enforce prices or selling conditions for seafood or to boycott dealers seeking better prices. The order covers Queen Annes County Clam Association, Grasonville, Md., and Anne Arundel County Clam Association, Shadyside, Md., together with their officers and members.

The complaint in this case, issued earlier during this fiscal year, charged that since 1958 the respondents had conspired to suppress competition in the purchase and sale of softshell clams harvested in the Chesapeake Bay region. Under this conspiracy, according to the complaint, they established and maintained uniform and noncompetitive prices and terms for the purchase or sale of their clams, boycotted dealers who purchased or sought to purchase at less than the fixed prices, and used threats of reprisals, intimidation, physical violence, and other means to enforce adherence to their prices and terms.

On the opposite side of the country, Washington Crab Association and its officers and members were charged with unlawfully restraining competition in the Dungeness crab industry in the State of Washington. The complaint charges that since about 1958, the association and its 250 crab fishermen members have used coercion in a conspiracy to prevent other dealers from buying or selling crabs and to get nonmember crab fishermen to join the association.

Another complaint in the seafood industry charges the Peelers Co., of New Orleans, La., with unlawfully achieving a virtual monopoly in the shrimp processing machinery business and with suppression of competition in the \$16 million a year shrimp industry.

The Peelers Co. is a partnership which leases, licenses, and sells shrimp processing machinery. Joined in this complaint is Grand Caillou Packing Co., Inc., of Houma, La., which is alleged to be owned and controlled by the same persons who own and control the Peelers Co. partnership. Grand Caillou is one of the Nation's largest proc-

essors of raw shrimp, which is taken primarily from the gulf coast shipping area.

The complaint charges, in effect, that by acquiring from others exclusive patent rights and failing to exploit them, the respondents have virtually blocked the development of new processing machinery invented by others; harassed manufacturers and users of competitive machinery by filing or threatening to file infringement suits; and discriminating against shrimp processors in Oregon, Washington, and Alaska, by charging them higher rental or royalty rates than those charged in other States.

Three complaints were issued charging that two affiliated midwestern dairies have conspired illegally with the Nation's three largest grocery chains to eliminate competition in the sale of dairy products.

The dairies are Adams Dairy Co., of Blue Springs, Mo., and Adams Dairy, Inc., of St. Louis, Mo., which sell milk, ice cream, cottage cheese, and other dairy products at wholesale in Missouri, Kansas, Illinois, and Kentucky. The grocery chains cited in the complaint are the Kroger Co., of Cincinnati, Ohio; Safeway Stores, Inc., of Oakland, Calif., and the Great Atlantic & Pacific Tea Co., of New York City.

The complaints charge that the two dairies have engaged in a trade-restraining combination with each chain whereby, among other things, prices and price differentials for dairy products are fixed and competitors are coerced into maintaining them. Each grocery chain is also alleged to charge less for the Adams products in certain areas than in others; to engage in dairy product price wars in some areas with the purpose or probable effect of destroying competition; to deny competitors or potential competitors of the Adams companies a reasonable opportunity to compete; and otherwise to give the Adams dairies preferential treatment in its retail stores.

In return, according to the complaint, the Adams dairies subsidize these activities of the chains by selling to them below cost or at lower prices than charged in other areas; furnishing coupons, free merchandise, etc., for the chains' use in retailing the dairy products in certain areas; guaranteeing them a profit margin regardless of the price at which the products are sold to the consumer; and giving them advertising allowances not offered to all competing purchasers on proportionally equal terms.

Another significant action was a complaint charging that Standard Oil Co. (Indiana) has entered into illegal price fixing and price maintenance agreements with certain of its service station lessee dealers. The complaint challenges the company's "Suggested Competitive Retail Price" plan.

In the shoe industry, monopolistic exclusive dealing price fixing practices are charged against Brown Shoe Co., of St. Louis, Mo.,

the world's second largest manufacturer of shoes. One count of the complaint alleges that some 650 independent shoestores operating under franchise agreements with Brown are required to restrict their purchases to the Brown lines and are forbidden to buy, stock, or resell competitive shoes. The second count of the complaint charges that Brown forces and requires more than 15,000 independent retail shoe customers to agree to maintain arbitrary, noncompetitive resale prices that Brown fixes and that Brown enforces the fixed prices by coercion and threats.

## ANTI-DECEPTIVE PRACTICE CASES

Fiscal 1960 witnessed trial work activity in anti-deceptive-practice cases to a degree unequaled by any other year in the history of the Commission. 346 anti-deceptive-practice complaints issued representing an increase of 28 percent over the previous fiscal year's work, and orders to cease and desist totaled 289, an increase of 8 percent. In addition, 2 antimonopoly complaints included deceptive-practice charges, and 7 partial orders were entered.

Set out below are the details of action taken in matters of more than routine interest.

### "Payola"

Public reaction to last year's highly publicized television scandals was intense and prolonged, and letters of complaint from the public poured into the Commission in unprecedented volume. The scandals in broadcasting demanded action, and the Commission met its challenge in this area with speed and determination. In a few short months the Commission issued 98 complaints against manufacturers and distributors of phonograph records. They allegedly had given illegal push money or other consideration to diskjockeys in order that the latter would "expose" certain records to the listening public with greater frequency than other records sold and distributed by those who made no such contribution or refused to pay tribute.

Included among the respondents were London Records, Inc. (docket 7671), Radio Corporation of America (docket 7676), United Artists Records, Inc. (docket 7804), Mercury Record Corporation, and three subsidiaries (docket 7846), Decca Distributing Corp. (docket 7830), Columbia Record Sales Corp. and Columbia Record Distributors, Inc. (docket 7968) and Capitol Records Distributing Corp. (docket 8029). The first four named have agreed to the entry of orders requiring them to cease and desist, in connection with phonograph records which have been distributed in commerce or which are used by radio or television stations in broadcasting programs in commerce, from—

(1) Giving or offering to give, without requiring public disclosure, any sum of money or other material consideration, to

any person, directly or indirectly, to induce that person to select, or participate in the selection of, and broadcasting of, any such records in which respondent has a financial interest of any nature.

(2) Giving or offering to give, without requiring public disclosure, any sum of money or other material consideration, to any person, directly or indirectly, as an inducement to influence any employee of a radio or television broadcasting station, or any other person, in any manner, to select, or participate in the selection of, and the broadcasting of, any such records in which respondent has a financial interest of any nature.

Respondents in 53 other cases had consented by July 1, 1960, to abide by the requirements of identical orders.

#### Television Commercial Demonstrations

The Commission discovered during the year that visual demonstrations of a product's qualities, properties, and effectiveness, especially when compared with those of competitors' products, could be presented to television audiences in unique ways which, it appeared to the Commission, grossly exaggerated the merits of the advertiser's merchandise and unfairly disparaged competitors' products.

Nine nationally advertised products were named in complaints which alleged, in substance, that camera trickery had been resorted to or that important, necessary facts regarding the televised portrayal had not been disclosed.

In Libbey-Owens-Ford Glass Company and General Motors Corporation (docket 7643), for example, respondents are alleged to have televised various scenes, accompanied by commentary, which represented contrary to fact that L-O-F safety plate glass used in the side windows of General Motors automobiles was the same grade and quality as that used in the windshields, that the glass in the side windows of General Motors' cars was free of all optical distortion while that in other cars had a high degree of distortion, and that the glass used in side windows of competitors' automobiles was of no better quality than that used in home windows.

This case is being vigorously contested.

Other cases in this category involved the televised advertising of "Colgate Dental Cream" by Colgate-Palmolive Company (docket 7660), "Life" cigarettes by Brown & Williamson Tobacco Corporation (docket 7688), "Alcoa Wrap" aluminum foil by Aluminum Company of America and its subsidiary, Wear-Ever Aluminum, Inc. (docket 7735), "Palmolive Rapid Shave" shaving cream by Colgate-Palmolive Company (docket 7736), "Blue Bonnet" margarine by Standard Brands, Inc. (docket 7737), "Pepsodent" toothpaste by Lever Brothers Company (docket 7747), "Schick Safety Razors" by Eversharp, Inc. (docket 7811), and "Rise" shaving cream by Carter Products, Inc. (docket 7943).

Signifying a growing concern on the part of the Commission that advertising agencies may be responsible in part or wholly for the false or misleading representations in the advertising complained of, the complaints in seven of the cases referred to above named advertising agencies as parties respondent, and four of the seven also charged advertising account executives with responsibility sufficient to name them as individual respondents.

Two of the cases (Brown & Williamson and Standard Brands) have been settled by the Commission's acceptance of agreements containing consent orders to cease and desist. The remaining cases are in various stages of litigation.

### Fictitious Pricing

The lesser number of complaints issued in fiscal 1960 covering this aspect of deceptive practices (reduced to 73 from the previous year's high of 117) may serve to give hopeful indication that businessmen are learning that if they offer merchandise for sale at prices said to be reduced from an advertised "reg." or "mfr's. list" or "manufacturer's suggested retail price" the latter must be a truthful representation of the article's usual and customary retail price in the trade area where the statement is made, or they are liable to be served with a Commission complaint.

Furs continued to lead the lists of commodities whose regular or former prices vendors allegedly misstated; and considerable activity in the fictitious pricing of luggage, rugs, and clothing was noted and duly treated.

A complaint issued in docket 7573 alleged that R. H. Macy & Co., in offering fur products for sale, had affixed labels to various fur products bearing prices represented as being regular prices which were in excess of those regularly charged, and had made misrepresentations in newspaper advertisements that certain of the merchandise was offered to the public at prices "below wholesale cost." The respondent agreed to the entry of an order requiring it to cease the practices.

W & J Sloane was alleged (docket 7579) to have misrepresented regular prices of rugs when offering them for sale at purportedly reduced prices. This respondent additionally was charged with advertising rugs as being entirely of wool when they were not, and with representing the rugs to be of sizes larger than they actually were.

In Stein Stores, Inc. (now Coghlen Corp.), this men's clothing chain with 85 retail outlets throughout the United States was charged with violations of the Federal Trade Commission Act by disseminating advertisements offering "\$55 value" suits for \$33 or \$24.77. The complaint alleged that the chain had not customarily sold such suits for \$55 in the recent regular course of business as represented.

Other violations of the act, and of the Wool Products Labeling Act, were attributed to the respondent's act of tagging suits "Dacron and Worsted" when a separate label disclosed a rayon content of 8 percent, and to its act of advertising that the chain sold clothing at "Factory Prices." The prices charged included the usual markup, the complaint alleged. This respondent agreed to the issuance of an order to cease and desist the acts and practices alleged in the complaint to be unlawful (docket 7729).

In Gimbel Brothers, Inc. (docket 7834) this department store located in New York City and having additional retailing operations in and around the metropolitan areas of Philadelphia, Chicago, Detroit, St. Louis, and San Francisco, was charged with publishing newspaper advertisements offering numerous commodities for sale at prices reduced from prices represented as being regular prices which actually were fictitious. Included among the goods so advertised was luggage represented as "\$6.98 to \$15.98 . . . sold last week at Gimbel's for \$9.98 to \$24.98" and "14" train case . . . reg. \$13.98 . . . now \$9.95." The complaint alleged that the luggage normally retailed at the purported reduced prices.

The Commission recognized the competitive inequities that may result when merchandisers of products sold in interstate commerce are required to comply with standards which some merchants who sell only locally may not voluntarily observe. Accordingly, the Commission has issued a complaint, without regard to the intrastate character of a respondent's sales, against the dissemination of allegedly false pricing and saving claims through newspapers having interstate circulation and radio and television broadcasts of interstate transmission (S. Klein Department Stores, docket 7891).

#### Bait Advertising

A practice closely related to fictitious pricing is bait advertising. The practice usually appears in one of two forms. The first is the advertising of brand name merchandise at startlingly low prices. The second is the advertising of inferior merchandise as quality merchandise, again at sensationally low prices. In both cases the idea is not to sell the advertised products but to attract customers who can be switched, often by extreme high-pressure tactics, to more expensive goods. In the first instance the prospective customer generally finds that the quality product either has been "just sold out," is a used demonstrator, had been repossessed from a purchaser, or is an irregular. In the second he finds that the advertised goods lack many of the virtues of quality and are undesirable in numerous respects.

In the past years the Commission has observed that the practice of bait advertising was indulged in to a great extent by sellers of household appliances (notably sewing machines) and hearing aids. In fiscal 1960 it was noted that the practice had become favored by oper-

ators in the home-improvement field. Four complaints issued against builders and installers of house shells, kitchens, bathrooms, roofs, storm windows, carports, patios, and garages.

In Lifetime, Inc., and Youngstown Homes, Inc. (docket 7616) two Philadelphia concerns, and their sole owners as individuals, were cited in a complaint that charged them with advertising, contrary to fact, that they would erect a complete garage for \$300, install a complete bathroom for \$44, and sell a shell home large enough to accommodate a three-compartmented bathroom, kitchen with eating space, large picture window, and basement for \$1,995. The complaint alleged that those and similar pricing claims were merely to induce prospective customers to make inquiries following which respondents' salesmen tried to sell them more expensive products and services. The complaint also alleged that respondents had misrepresented themselves to be affiliated with Youngstown Kitchens and Youngstown Industries, Inc., of Philadelphia.

### Business Opportunities

The offer to sell machines purported to vend astonishingly profitable amounts of ball gum, stamps, nuts, and candy, under an initial guise of being an offer of employment appearing in the classified sections of newspapers, has served for many years as the basis for much misrepresentation concerning the business opportunities purportedly offered.

In the classic case, a "local man or lady" is needed "to service highly profitable established route" starting "spare time" with "working capital required" in the amount of several hundred dollars to maintain an "inventory fully secured." Ordinarily, the only truthful parts of the sale pitch are that capital is required and that the operation will not ever necessitate full-time attention.

The Commission issued its customary quota of complaints in this type case, but also noted changes in the method of vending (from automatic dispensers to self-serve racks and cases), a trend to entirely different and much more expensive types of commodity vended (from penny and nickel edibles, stamps, etc., to phonograph records, radio and TV tubes, and clocks), and a big jump in the "investment" required (from about \$400 to \$975, \$1,192.50, \$2,923.25, and \$4,860).

In a complaint issued against Midwest Electronics Corp., St. Louis, Mo. (docket 7540), the Commission has charged that concern and two of its officers as individuals with using exaggerated earnings claims and other misrepresentation to sell their tube-testing devices, tubes, and related supplies and equipment.

Customers have been misled both by the concern's advertising and by its salesmen who follow up leads obtained through the ads, the complaint alleged.

For example, the complaint charged, purchasers investing \$2,923.25 will not make \$650 a month or proportionate amounts on smaller or larger investments, as their actual returns, if any, are appreciably smaller.

Nor does Midwest locate and establish a route of the tube-testing devices purchased which will produce the claimed income; almost all locations it procures are very poor and yield virtually no income, the complaint stated.

It added that the company neither relocates nor repurchases unprofitably or undesirably placed devices. The company's sole interest, according to the complaint, is to sell the products, and once the sale has been consummated it has no further concern with the buyer.

#### Correspondence Schools

Continuing scrutiny of the advertising disseminated by schools offering instruction in various fields by correspondence showed no slackening in the use of improper enrollment inducements by some of the schools. Job availability in the particular field, salaries paid, and the qualifications of the course to equip a student to enter the field, were the subjects of alleged misrepresentation by six correspondence schools resulting in the issuance of complaints against them during the year.

A complaint against Continental Schools, Inc., Vancouver, Wash. (docket 7873), vendors of a course of instruction in jet engine maintenance and repair, charged that virtually all prospects willing to make the downpayment were accepted, and the school had enrolled many who could not learn the principles and practical aspects of jet engine mechanics through the course without personal supervision and direction. Few, if any, customers, the complaint charged, had continued with the course after receiving several lessons, and the overwhelming majority had been unwilling or unable to complete it. The school and its salesmen, it was additionally alleged, derived a major portion of their income from payments for canceled or uncompleted courses.

Contrary to other claims, the complaint continued, even if students were to complete the course with passing grades there was little if any prospect of being employed as jet engine mechanics or technicians by industry; and they could not in any sense be considered trained or qualified to repair, maintain, or overhaul jet engines.

Also challenged, among others, was Continental's claim that there was nothing to prevent students successfully completing the course from earning the prevalent wage scales of highly skilled mechanics or technicians on airplane engines.

According to the complaint, mechanical work on jet engines ordinarily is done by skilled personnel capable of working on all types of powerplants, which includes reciprocating as well as jet engines. Much of this work can be performed only by personnel who have been

examined and certified by the Federal Aviation Agency. Since Continental and its unsupervised home study course had not been approved by the FAA, its students were ineligible to take this certification examination and thus would not earn the claimed high wages.

The company's failure to disclose affirmatively these existing limitations on employment and earning prospects and other deceptive practices were unfair methods of competition forbidden by the Federal Trade Commission Act, the complaint concluded.

The respondent consented to the entry of an order forbidding further use of the claims objected to.

#### Skip Tracing

"Skip tracing" is creditmen's talk for the operations used by them in locating delinquent debtors who have moved, changed places of employment, or otherwise cannot be found. The novel and ingenious methods used by some of the craft are legendary. Some are illegal.

One illegal method is to use forms bearing titles and addresses which result in conveying, to debtors and persons who know the debtors' whereabouts, the idea that the United States Government seeks information of a confidential nature which must be furnished. This is an unfair method of competition against collection agencies that do not resort to such subterfuge.

Seven complaints issued during the year against concerns which represented themselves to be Federal agencies, express companies holding packages for addressees who could not be found, and movie casting services.

Illustrative of the sort of unfair practice proceeded against are the charges set out in a complaint against Winters-Schneider Sales Agency, a partnership of Herman Winters, Ralph Schneider, and Sidney Mandy in Hollywood, Calif. (docket 7679).

The complaint alleged that the firm sold skip-tracing forms to collection agencies, merchants, and others which misrepresent to debtor recipients that a branch of the U.S. Government is requesting information from them.

Purchasers fill in names and addresses of debtors on IBM card forms and send them to the firm's agent in Washington, D.C., which mails the cards together with return envelopes preaddressed to a purported Government agency at the agent's Washington, D.C., address, a room in a building located on K Street NW. Completed forms returned to the agent are forwarded to purchasers, the complaint said.

Typical forms are headed "Semi-Annual Employment Record," "Change of Employment Records," "Employment Verification Request," "Department of Vehicle Verification Records," "Department of Claims and Settlements," "Office of Area-A," "Bureau of Settlements and Collections," and "Division of Disbursements."

Various cards, the complaint alleged, advise the recipients "All Questions Must Be Answered Correctly and Form Returned at Once!" The questions include the name and address of the debtor's employer and bank, length of employment, and make and year of his car.

#### Therapeutic Devices

The year saw vigorous litigation in that phase of the Bureau's work coming within the purview of the Wheeler-Lea amendment to the Federal Trade Commission Act, relating specifically to the advertising of food, drugs, cosmetics, and therapeutic devices. Shoes, hernial trusses, dietary bread, and an alleged weight-reducing vibrating couch were among the commodities that were the subjects of complaint.

The action on a massive scale was taken simultaneously against 10 sellers of corneal contact lenses located from coast to coast. Each respondent had claimed that all persons could successfully wear its contact lenses, and all except one advertised there was no discomfort from wearing them, the complaints stated.

The complaints alleged that a significant number of persons cannot wear these lenses successfully and practically all will experience some discomfort at first. In a significant number of cases discomfort will be prolonged and in some cases will never be overcome.

Further allegations were that all respondents but one had misrepresented that purchasers can discard their eyeglasses, and all except one other falsely implied that the lenses would correct all defects in vision. Also challenged were claims by some of the respondents that the lenses are unbreakable, stay in place under all conditions, and may be worn for a lifetime without change of prescription. (Contact Lens Specialists, Inc., and an official, Boston, Mass. (docket 7948); Nu-Vision Optical Studios, Inc., and its officials, Flint, Mich. (docket 7949); R. O. Davis and N. D. Whipple, trading as Contact Lens Center, Seattle, Wash. (docket 7950); Leo Biglaiser, Phoenix, Ariz. (docket 7951); Murray B. Lepie, trading as Kenmore Optical Co., Boston, Mass. (docket 7952); Elliott Kapchan, trading as Dr. E. Kapchan and Dr. J. Jackson, Optometrists, Alameda, Calif. (docket 7953); American Contact Lens Laboratories, Inc., and its officials, Detroit, Mich. (docket 7954); Gordon-Masling Optical Co., Inc., and its officials, Rochester, N.Y. The company trades as Optical Associates of Rochester (docket 7955); Daniel D. Weinstein and Irwin R. Title, copartners trading under their own names, Oakland, Calif. (docket 7956); and Noel C. Genevay, Jr., trading as Contact Lens Specialists, New Orleans, La., (docket 7957).)

#### Dance Instruction

Arthur Murray, Inc., the licensor of some 450 "Arthur Murray Studios" throughout the world, was charged with using deceptive

Promotional schemes as a decoy to obtain customers, and with selling dance instruction courses through deception and coercion (docket 7845).

Joined in the complaint were the company's officials, Arthur and Kathryn Murray and David A. Teichman.

The challenged schemes, promoted in radio and television broadcasts and newspaper advertisements, included telephone quizzes, cross-word, "Dizzy Dance" and "Lucky Buck" contests in which winners purportedly received a gift certificate for a given number of Arthur Murray lessons. The promotions included introductory offers purporting to furnish the first lesson or a short course free or at a reduced price.

The complaint charged that quizzes, puzzles, and contests were not bona fide but were used simply to get the names of persons who might later be encouraged to purchase dancing instruction. In many instances, it alleged, "winners" did not receive a course of bona fide dance instruction or the number of lessons called for in the certificate or special offer, but a substantial part of instruction time was used to sell additional lessons or courses. Furthermore, the complaint alleged, part of the instruction called for sometimes was furnished only upon the previously undisclosed condition that additional lessons must be purchased.

The complaint also charged that the respondents, to sell their courses, directly or through licensees, had employed the following techniques, which sometimes were used to mislead and coerce purchasers:

1. The use of "relay salesmanship," involving a number of Arthur Murray representatives who sign up a lone prospect by force of numbers and unrelenting sales talks, sometimes aided by hidden listening devices monitoring conversation with the pupil;
2. The use of so-called "analyses," "studio competitions," and similar purported objective methods of judging dancing ability, which actually are to get the "winner" or "successful candidate" to buy future lessons;
3. The use of blank or partially filled out contract forms, and by refusing to answer or evading questions as to amount due or payable so that pupils are misled as to the amount of their financial obligations;
4. By falsely assuring prospects that a given course will enable him to achieve a certain "standard" of dancing proficiency when it is planned that the prospects will be subjected to further coercive sales efforts before both the given course is completed and the "standard" reached.

According to the complaint, the cost of the courses ranged from about \$20 for 1 hour of instruction to about \$12,000 for 1,200 hours.

## Miscellaneous Cases

Complaints and cease-and-desist orders were also issued in the following deceptive practice matters:

Twelve matters involving "advance fee" loan procurement and real estate advertising; eight matters involving the advertising and branding of automotive products, including tires, mufflers, batteries, oil additives, and radiator treatments; and seven matters involving the sales of rebuilt radio and TV tubes as new.

Additionally 35 complaints and 40 orders relating to a variety of labeling and invoicing practices subject to the provisions of the Wool Products Labeling Act were entered, as were 55 complaints and 70 orders concerning practices deemed violative of the Fur Products Labeling Act.

## Court Cases

Joseph Freeman, president of Gift Products, Inc., Chicago, Ill., was fined \$1,000 in U.S. District Court for the Northern District of Illinois, Eastern Division, in a criminal case stemming from his refusal to testify in a Federal Trade Commission proceeding against him when under subpoena.

This is believed to be the first successful criminal prosecution for failure to give testimony at hearings before a Federal regulatory agency in response to a subpoena. The prosecution was instituted by the Department of Justice at the request of the Commission, which is one of several independent agencies having statutory power to request criminal sanctions in these circumstances.

## HEARING EXAMINERS

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Under the Federal Trade Commission Act, when the Commission has reason to believe that any law over which it has jurisdiction has been violated, it issues a formal complaint, at which time the case is assigned to a hearing examiner who has the responsibility of taking testimony in support of, and in opposition to, the allegations of the complaint. At the present time there is a staff of 14 such hearing examiners, including the Director, who also acts as administrator under the general supervision of the Chairman.

The Administrative Procedure Act outlines the powers and duties of all hearing examiners in the Federal service, including the Federal Trade Commission. Among other things, it is provided in this act that the appointment and tenure of all hearing examiners are under the sole authority of the Civil Service Commission. Under this act, the hearing examiner has the duty and authority to conduct fair and impartial hearings and to rule upon offers of proof and to receive evidence at the formal hearings over which he presides. The hearing examiner is in full charge of the case from the time the complaint is issued until he renders his initial decision. In addition to ruling upon offers of proof and admissibility of evidence, he is empowered to hold pretrial conferences for the purpose of settlement and simplification of issues. He also rules upon all procedural and other interlocutory motions which, prior to the passage of the Administrative Procedure Act, were passed upon by the Commission itself. The right of the parties to appeal to the Commission from such rulings is restricted. This change in procedure results in a substantial saving of time in the processing of the cases.

When a hearing examiner has completed the taking of testimony in any case, he allows the attorneys for both parties to file proposed findings of fact and draft of order, and in some instances he grants them an oral argument. Thereafter he prepares and files an initial decision which, under the Administrative Procedure Act, becomes the decision of the Commission if no appeal is made from it by either of the parties, or if the Commission itself does not enter a stay order or put the case on its own docket for review. In any event, the decision of the hearing examiner becomes a part of the formal record and

is taken into consideration by the Federal courts in any review of the case. In this connection it is recognized by the Commission and the Federal courts that the decision of the hearing examiner should be, and is, given great weight because he is the man who, under the law, has the duty of listening to the witnesses and passing upon their credibility. The Commission may adopt, in whole or in part, the decision of the hearing examiner or may set it aside completely, in which case the Commission either rewrites the decision or remands it to the hearing examiner for the taking of further testimony. As a matter of practice, however, since this procedure has been in effect, there have been very few instances where the decisions of the hearing examiners have been completely reversed or set aside.

Since the hearing examiners were given the responsibility of taking full charge of the case from the time the Commission issues its complaint until he renders his initial decision, the length of time it has taken to process complaints has substantially declined, both in antimonopoly and in deceptive practice cases. This procedure, first instituted in 1950, has had a major part in speeding up the handling of the Commission's cases.

Performance during fiscal 1960 indicates that the Commission's hearing examiners have continued their efficient handling of cases. The following table is illustrative of this:

Fiscal year	On hand	Received	Total handled	Disposed of	On hand	Hearing days
1955 -----	126	165	291	124	167	611
1956 -----	167	201	368	187	181	670
1957 -----	181	250	431	232	199	733
1958 -----	199	377	576	328	248	783
1959 -----	248	376	624	391	232	779
1960 -----	232	545	777	404	373	858

## OFFICE OF THE GENERAL COUNSEL

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The General Counsel and the attorneys of his staff represent the Commission as its counsel in all cases advancing beyond the agency, or otherwise arising in the courts. All litigation in which the Commission is a party, or an intervenor, in Federal or State courts, or in the U.S. courts of appeals, or the Court of Customs and Patent Appeals, is handled by the Office of the General Counsel. When Commission cases reach the Supreme Court, the legal services devolving upon the Commission are performed by this Office in collaboration with the Solicitor General of the United States, who represents the Government in that Court.

The General Counsel functions as the Commission's law officer and principal legal adviser. In addition to the court work, his Office administers the Webb-Pomerene Export Trade Act; passes upon all trade practice rules and "Guides" before their approval and issuance by the Commission; gives informal advice to businessmen on trade regulation matters involving laws administered by the Commission; reviews, analyzes, and prepares reports of the Commission on new legislation; polices Commission cease-and-desist orders for compliance purposes; initiates penalty suits by the Attorney General for enforcement of such orders; institutes court action for enforcement of subpoenas and for enforcement by actions in contempt of court for disobedience to decrees affirming Commission orders; integrates mandatory order compliance with work programs for securing voluntary adherence to stipulations, trade practice rules, and guides.

The General Counsel represents the Commission in hearings before congressional committees. The special legal assistants to the Commission are supervised by him. Also legal studies and manuals for guidance of the Commission's professional staff are prepared under the supervision of the General Counsel.

### Duties Conferred in Acts Administered by Other Agencies

The Office of the General Counsel, as a further responsibility, processes and reports upon industry voluntary agreements and programs utilized under the Defense Production Act, also upon small business

production pools, research and development programs, and related agreements under the Small Business Act. These are made subject to consultation with the Chairman of the Commission prior to their being put into effect. The review by the General Counsel's Office of these industry agreements, programs, and pools, is directed to such purposes as aiding small business, eliminating or minimizing anticompetitive effects that may run counter to the basic policies of the Federal Trade Commission Act and the antitrust laws, and preventing undue concentration of economic power.

#### Fiscal 1960 Highlights

Issuance of a cease-and-desist order does not end a case before the Commission. Appeals therefrom and constant compliance policing ensue, and violators found to be in disobedience of the cease-and-desist order are subjected to court enforcement proceedings.

During the fiscal year 1960, the Compliance Division secured total judgments of \$39,300 in civil penalty suits and a judgment of \$60,000 in criminal contempt proceedings before the U.S. Court of Appeals for the Third Circuit. The total of such civil and contempt penalties assessed against violators exceeded considerably the sums recovered in previous years.

Appeals cases were decided by the courts during the year, as follows: two cases in the Supreme Court involving very important questions in enforcement against restraints of trade.

The Appellate Division of this Office handled 68 cases during fiscal 1960. It represented the Commission in 9 of the 11 U.S. circuit courts of appeals. The Division also represented the Commission in 6 Federal district courts. The Division likewise represented the Commission in a trademark cancellation case pending before the Court of Customs and Patent Appeals.

At the end of the year 35 export trade associations comprising 408 American corporations were registered with the Commission under the Webb-Pomerene Act. Their business transactions and activities in foreign commerce fall within the supervision of the Export Trade Office under the General Counsel.

The general work also was highlighted by other legal matters which are mentioned below in descriptions of the work of the several divisions.

#### DIVISION OF SPECIAL LEGAL ASSISTANTS

The principal assignment of this Division is the preparation of documents needed to implement Commission decisions in adjudicative proceedings. The work includes the examination of formal records and reporting on them to the Commission or individual Commissioners.

Attorneys of the Division consult with Commissioners and staff members on questions of law, policy, and procedure in connection

with all phases of the Commission's work. They prepare reports and recommendations on a wide variety of subjects, including questions of substantive law, proposed trade practice rules, and proposed reports to the public.'

During fiscal 1960 the Division prepared drafts of 346 case dispositions, of which 99 were final decisions and 247 were interlocutory. Division attorneys also prepared 136 miscellaneous reports and recommendations. This total of 482 documents represents an increase of 31 over the number prepared in the preceding year.

## APPELLATE DIVISION

The principal function of the Appellate Division is to represent the Commission in proceedings in Federal courts.

Any person, partnership, or corporation against which the Commission has issued an order to cease and desist may petition a U.S. court of appeals to review and set aside the order. Disobedience of a court's decree enforcing a Commission order or subpoena may be punished by the court as a contempt. When a subpoena issued by the Commission has not been obeyed, the Commission may apply to a U.S. district court to order compliance. Any person suffering legal wrong because of final Commission action for which there is no other adequate remedy in any court may obtain a review in a U.S. district court.

The Division represents the Commission in such litigation and in any other proceedings involving the Commission that may arise in the Federal courts. With the Office of the Solicitor General it participates in the preparation and presentation of Commission cases in the Supreme Court of the United States.

In addition to its court work, the Division prepares opinions and makes recommendations on questions of substantive and administrative law and procedure arising in the work of the Commission and in court proceedings.

During fiscal 1960 the Division handled 68 cases. It completed litigation in 27 cases, 5 of which were antimonopoly proceedings, 14 involved deceptive practices, 2 concerned the Commission's subpoena powers, 3 were proceedings for contempt of courts which had enforced Commission orders to cease and desist, 1 was a denial of a petition for rehearing by the Supreme Court, 1 concerned a motion to compel the testimony of Commission investigators in a private suit, denied in the U.S. District Court for the District of Columbia, and in 1 case the Commission filed a brief as *amicus curiae* in support of a motion for preliminary injunction in a private antimerger action (which was granted).

Three cases were decided by the Supreme Court, all in favor of the Commission. That Court denied 11 petitions for certiorari to

review courts of appeals decisions in favor of the Commission, and granted a petition filed on behalf of the Commission to review an unfavorable decision.

Cases open for further action at the close of the fiscal year comprised 1 in the Supreme Court, 35 in courts of appeals, and 5 in district courts. These included 13 antimonopoly, 18 deceptive-practice, 4 subpoena, 1 Clayton Act order enforcement, 4 miscellaneous matters, and 1 trademark cancellation appeal.

The Division filed 46 briefs and memoranda upon the merits, and assisted in the preparation of 29 other briefs filed on the Commission's behalf by the Department of Justice. Thirty-three arguments were made by the Division staff, and nine others by the Department of Justice. Proceedings to obtain court orders enforcing subpoenas were initiated in three cases. Three petitions to institute criminal contempt proceedings were likewise filed. In addition, approximately 200 other papers were filed in cases in Federal litigation. The Division conducted 4 days of trial (in one of the criminal contempt proceedings), made numerous other court appearances, and participated in several conferences in chambers. It represented the Commission in 9 of the 11 U.S. courts of appeals, in the U.S. Court of Customs and Patent Appeals, and in 6 U.S. district courts.

## Anti-monopoly Cases in Federal Courts

### In the Supreme Court

#### Decisions

There was one antimonopoly case pending at the start of the year which reached decision before its close: *Henry Broch & Co., Chicago, Ill.* (seller's broker's unlawful sharing of brokerage with customer). The Court reversed the Seventh Circuit and upheld the cease-and-desist order of the Commission.

One other antimonopoly case was considered and decided during the year: *Anheuser-Busch, Inc., St. Louis, Mo.* (price discrimination between different areas in sale of beer). The Court rejected the lower court's interpretation of section 2(a) of the Clayton Act that the Commission must show some competitive relationship between the favored and nonfavored buyers which entitles them to equal price treatment. The decision constitutes approval of the Commission position that different prices in different geographical areas may provide the basis for a charge of unlawful price discrimination. The Supreme Court remanded the case to the Court of Appeals for the Seventh Circuit for further proceedings not inconsistent with its opinion.

In addition, the Court denied a petition for rehearing filed by *Simplicity Pattern Co., Inc., New York, N.Y.*, which involved restraint of trade and discriminatory services in connection with dress pattern sales.

Petitions for certiorari denied

P. Lorillard Co., New York, N.Y., and General Foods Corp., White Plains, N.Y., discriminatory advertising allowances to chainstores through broadcasting company intermediaries. Review of court of appeals decisions (Third Circuit) affirming the Commission's orders was denied.

Standard Motor Products, Inc., New York, N.Y., price discrimination in the sale of automotive parts. Review of court of appeals decision (Second Circuit) affirming the order of the Commission was denied.

In Courts of Appeals

Decisions and other disposition

One of the three antimonopoly cases pending at the beginning of the year reached decision before its close. American Motor Specialties Co., Inc., New York, N.Y. (Second Circuit), price discrimination in the purchase of automotive products. The Commission's order was affirmed.

One case arose during the year and was dismissed pursuant to stipulation. North American Philips Co., Inc., New York, N.Y. (D.C. Circuit), petition to review and set aside Commission order in a test of the application of Public Law No. 86-107, amendment to the Clayton Act.

Pending cases

Crown Zellerbach Corp., San Francisco, Calif. (Ninth Circuit), unlawful acquisition of competitor paper company, and Sun Oil Co., Philadelphia, Pa. (Fifth Circuit), price discrimination in gasoline sales, remained pending at the close of the year.

Pending cases which arose during the year include: Erie Sand & Gravel Co., Erie, Pa. (Third Circuit), Reynolds Metals Co., Richmond, Va. (D.C. Circuit), A. G. Spalding & Bros., Inc., Chicopee, Mass. (Third Circuit), all of which involve unlawful acquisition of competing firms; Mid-South Distributors, Inc., Memphis, Tenn. (Fifth Circuit), and Thompson Ramo Wooldridge, Inc. (formerly known as Thompson Products, Inc.), Euclid, Ohio (Sixth Circuit), which involve price discrimination in the purchase and sale respectively of automotive parts and accessories; Swanee Paper Corp., Ransom, Pa. (Second Circuit), involving discriminatory payments to and for the benefit of a food chain in connection with the advertising and resale of petitioner's paper products; and Schick, Inc., Lancaster, Pa. (D.C. Circuit), Sperry Rand Corp., New York, N.Y. (D.C. Circuit), which are concerned with whether the finality of cease-and-desist orders provided for by Public Law No. 86-107 amending the Clayton Act applies to orders issued before enactment of that statute.

Anti-Deceptive Practice Cases in Federal Court's  
In the Supreme Court  
Decision

One deceptive-practice case was pending at the beginning of the year: Travelers Health Association, Omaha, Nebr., misrepresentation of insurance policies. The Court vacated the decision of the Eighth Circuit, which had set aside the Commission's order to cease and desist, and remanded for further proceedings.

Petitions for certiorari denied

Wybrant Systems Products Corp., New York, N.Y., Leo O. Johnson, New Orleans, La., and David W. Erickson, Chicago, Ill., misrepresentation in connection with the sale of preparations for the treatment of hair and scalp. Review of courts of appeals decisions (Second, Fifth, and Seventh Circuits) affirming Commission cease-and-desist orders was denied.

Mohawk Refining Corp., Newark, N.J., and Double Eagle Refining Co., Oklahoma City, Okla, deceptive concealment of material facts in sale of used motor oils. Review of courts of appeals decisions (Third and Tenth Circuits) affirming and enforcing Commission orders was denied.

Mitchell S. Mohr, Los Angeles, Calif., deception in obtaining credit information through use of "skip-tracing" devices. Review of court of appeals decision (Ninth Circuit) affirming and enforcing order of Commission was denied.

Holland Furnace Co., Grand Rapids, Mich., unfair and deceptive practices in sale of furnaces and parts. Review of court of appeals decision (Seventh Circuit) on interstate commerce issue was denied.

Carter Products, Inc., New York, N.Y., false advertising of drug product. Review of court of appeals decision (Ninth Circuit) affirming and enforcing cease-and-desist order of Commission was denied. Petition for rehearing was also denied.

Pending case

Bantam Books, Inc., New York, N.Y., failure to disclose abridgment of books or substitution of title. Petition for certiorari filed from Second Circuit decision affirming and enforcing order of Commission.

In Courts of Appeals  
Decisions and other disposition

Seven of the nine cases pending at the beginning of the year reached decision before its close.

Bantam Books, Inc., New York, N.Y. (Second Circuit), failure to disclose abridgment of books or substitution of title. The Commission's order was affirmed and enforced.

David W. Erickson, Chicago, Ill. (Seventh Circuit), Ward Laboratories, Inc., New York, N.Y. (Second Circuit), and George M. Voss, Atlanta, Ga. (Fifth Circuit), misrepresentation in connection with the sale of preparations for the treatment of hair and scalp. The courts of appeals upheld the cease-and-desist orders of the Commission.

The Fair, Chicago, Ill. (Seventh Circuit), misbranding and false advertising of fur products. The Commission's order was modified by the court and, as modified, enforced.

Renaire Corp., Springfield, Pa. (Third Circuit), misrepresentation of prices in connection with a home freezer food plan. Petition for review was dismissed upon joint motion.

Mitchell S. Mohr, Los Angeles, Calif. (Ninth Circuit), deceptive practices in obtaining of credit information through use of "skip-tracing" devices. Commission's order was affirmed and enforced.

Six cases arose and reached decision during the year.

Keel Hair & Scalp Specialists, Inc., Oklahoma City, Okla. (Fifth Circuit), misrepresentation in connection with the sale of preparations for the treatment of hair and scalp. The order of Commission to cease and desist was affirmed and enforced.

Audivox, Inc., Boston, Mass. (First Circuit), false advertising of hearing aids. The Commission's order was modified to conform to the Commission's order in Beltone Hearing Aid Co., Docket 7359, and enforced as thus modified.

Mid-Tex Corp., New York, N.Y. (Second Circuit), false advertising of aluminum storm windows. Petition to review was dismissed for lack of prosecution by petitioner.

Basic Books, Inc., Chicago, Ill. (Seventh Circuit), false representations as to price, "free" offers, etc., in connection with the sale of encyclopedias. Cease-and-desist order of Commission was affirmed and enforced.

Niresk Industries, Inc., Chicago, Ill. (Seventh Circuit), false advertising of electric cooker-fryer. Commission order was affirmed and enforced.

Allen V. Tornek, New York, N.Y. (D.C. Circuit), false and misleading advertising of watches. Commission's cease-and-desist order affirmed and enforced.

#### Pending cases

Travelers Health Association, Omaha, Nebr. (Eighth Circuit), misrepresentation of insurance policies. Pending on remand by the Supreme Court to the court of appeals for further proceedings.

Evis Manufacturing Co., San Francisco, Calif. (Ninth Circuit), false advertising of a water conditioning device. Pending throughout the year.

Holland Furnace Co., Grand Rapids, Mich. (Seventh Circuit), unfair and deceptive practices in sale of furnaces and parts. Pending throughout the year.

Maurice J. Feil et al., t/a The Enurtone Co., Los Angeles, Calif. (Ninth Circuit), misrepresentation of a device to cure bed-wetting.

Globe Readers Service, Inc., Michigan City, Ind. (Seventh Circuit), deceptive practices in the solicitation and sale of magazine subscriptions.

Max H. Goldberg, t/a Novel Co., Chicago, Ill. (Seventh Circuit), sale and distribution of merchandise by means of lottery schemes.

Hunter Hills Corp., New York, N.Y. (Second Circuit), misbranding of wool products and the furnishing of false guarantees with respect thereto.

Theodore Kagen Corp., New York, N.Y. (D.C. Circuit), false and misleading advertising of watches.

Samuel A. Mannis, Hollywood, Cal. (Ninth Circuit), violation of Fur Products Labeling Act.

Morton's, Inc., Boston, Mass. (First Circuit), violation of Fur Products Labeling Act.

Peerless Products, Inc., Chicago, Ill. (Seventh Circuit), sale of punchboards for use of others in selling merchandise by lottery.

Michael Silver (Kulin Waste Co.), Worcester, Mass. (First Circuit, misbranding of wool products.

#### Proceedings in Federal Courts for Enforcement of Orders

In Courts of Appeals

Pending cases

One case for enforcement of a Commission order to cease and desist was pending at the beginning of the year: Washington Fish & Oyster Co., Inc., Seattle, Wash. (Ninth Circuit), application by the Commission for enforcement of Clayton Act order. It remained pending throughout the year.

One case for enforcement of a Commission order calling for special report in connection with Clayton Act § 7 investigation was pending at the end of the year. St. Regis Paper Co., New York, N.Y. (Second Circuit).

In District Courts

Decision

St. Regis Paper Co., New York, N.Y. (Southern District of New York), court granted in part and denied in part enforcement of Commission's order for special report in connection with antimerger investigation, but denied request for statutory forfeitures of \$100 a day for failure to file special report. Appeal was taken to the Second Circuit.

## Subpena Enforcement Cases in Federal Courts

### In Courts of Appeals

#### Decisions

Walter L. Dilger (Beatrice Foods Co.), Chicago, Ill. (Seventh Circuit), appeal from district court decision enforcing Commission subpena. Reversed by Seventh Circuit. The Solicitor General has been requested to file a petition for certiorari.

Flotill Products, Inc., Stockton, Calif. (Ninth Circuit), appeal from district court's enforcement of Commission subpena. Enforcement upheld.

#### Pending case

Hunt Foods & Industries, Inc., Fullerton, Calif. (Ninth Circuit), appeal from district court's enforcement of Commission subpena.

### In District Courts

#### Decisions

One case pending at the year's beginning was decided during the year: Hunt Foods & Industries, Inc., Fullerton, Calif. (Southern District of California), enforcement ordered.

One case arose and was decided during the year: National Titanium Co., Inc., Vernon, Calif. (Southern District of California), enforcement ordered.

#### Pending case

Pending at the end of the year was Kayser-Roth Corp., New York, N.Y. (Southern District of New York).

## Contempt Proceedings in Federal Courts

### In Courts of Appeals

Whitney & Co., Seattle, Wash. (Ninth Circuit), criminal contempt conviction for violation of court decree enforcing Commission's order. Fine of \$2,000 was imposed.

Edwin G. Axel (National Clearance Bureau), East Orange, N.J. (Third Circuit), criminal contempt conviction for violation of court order commanding obedience to Commission order to cease and desist. Fine of \$100 was imposed.

Trade Union Courier Publishing Corp., New York, N.Y. (Third Circuit), conviction for criminal contempt for violation of court decree commanding obedience to Commission order requiring proprietors of labor newspaper to stop (1) making false representations of AFL-CIO connection to induce sales of advertising space, and (2) publishing and attempting to collect for advertisements not ordered. After 4 days of trial before a three-judge panel of the court of appeals, in which 16 prosecution and 4 defense witnesses were examined and cross-examined, the court rendered a verdict holding the corporation, its president, Maxwell C. Raddock, and its vice president and general

manager, Burt Raddock, guilty of criminal contempt. The court imposed fines totaling \$60,000 which were paid to the clerk of the court and deposited in the U.S. Treasury. This is the largest penalty ever imposed for violation of a decree enforcing a Commission order.

#### Trademark Cancellation Proceeding in Federal Court

Bart Schwartz International Textiles, Ltd., New York, N.Y. (U.S. Court of Customs and Patent Appeals), appeal from a decision of the Trademark Trial and Appeal Board granting the Commission's petition to cancel a fabric trademark registration obtained by fraud. The case remained pending during the year.

#### Suits Against the Commission in Federal Courts

##### In District Courts

Nash-Finch Co., Minneapolis, Minn. (District of Columbia), complaint for declaratory judgment that the Commission's interpretation of Public Law 86-107 as applying to preexisting orders be held erroneous. The court granted plaintiff's motion for summary judgment and denied the Commission's cross-motion for summary judgment or for judgment on the pleadings. This is, in effect, a holding that Public Law 86-107, amending the Clayton Act, does not apply to orders issued before its enactment. The case will be appealed.

Bigelow-Sanford Carpet Co., Inc., New York, N.Y., and Courtaulds (Alabama) Inc., Le Moyne, Ala. (District of Columbia), complaints for declaratory judgment and injunctive relief as to the Commission's promulgation of certain of the Rules and Regulations of the Textile Fiber Products Identification Act. The Commission's motion for summary judgment in Bigelow-Sanford was granted. A like motion to the court in Courtaulds was pending at the close of the year.

#### Private Cases in Federal Courts Involving the Commission.

District Distributors, Inc. (Philip and Lillian Rosen, t/a Dox v. District Distributors, Inc.), Washington, D.C. (District of Columbia), motion to compel the testimony of Commission investigators in private action was opposed and was denied by the court.

Crane Co. (Briggs Manufacturing Co. v. Crane Co.), Detroit, Mich. (Eastern District of Michigan), brief filed by Commission as amicus curiae in support of a motion for preliminary injunction in private antimerger case. Injunction was granted and upheld on appeal.

#### DIVISION OF COMPLIANCE

This Division obtains and maintains compliance with the Commission's cease-and-desist orders. Without continuous surveillance, the Commission is unable to know whether or how its orders are being obeyed.

Each respondent is required to report how he is complying with these orders and intends to do so in the future. Immediately following the entry of an order, the Division scrutinizes these reports and augments them where necessary by conferences, supplemental reports, or investigations. In addition, the Division—

Requests and analyzes results of the investigations of complaints of violation of orders.

Collaborates with U.S. attorneys at their request for prosecution in district courts of the United States in civil penalty suits based on violation of Commission orders.

Works out acceptable voluntary compliance programs.

Discovers violations and speeds prosecutions of the penalty provisions of the Federal Trade Commission Act, which is imperative in the public interest.

NOTE.—Violation of a cease-and-desist order makes a respondent liable to civil penalty up to \$5,000 for each violation. Where the violation continues, each day of its continuance is a separate offense.

Penalty proceedings during fiscal 1960	
Pending July 1, 1959	11
Filed during year	11
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Total for disposition	22
Disposed of during year	11
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Pending June 30, 1960	11
Certified, not yet filed	22

Summary of civil suits since 1947<sup>1</sup>

Fiscal year	Total judgments	Suits certified to the Attorney General	Fiscal year	Total judgments	Suits certified to the Attorney General
1947	\$38,000.00	1	1955	\$40,132.69	11
1948	-----	0	1956	19,342.70	9
1949	16,900.00	0	1957	24,704.60	12
1950	7,000.00	9	1958	21,557.38	11
1951	80,000.00	1	1959	55,650.00	10
1952	11,600.00	5	1960	39,300.00	25
1953	59,538.20	3			
1954	8,950.00	2	Total	----- 422,675.57	-----

<sup>1</sup> This Division was established in May 1947.

### Civil Penalty Cases Concluded

American Greetings Corp. (Sixth Circuit). Unfair methods of competition in connection with the sale of greeting cards. Judgment of \$10,600 entered in the Northern District of Ohio affirmed.

Duon, Inc. (S.D.Fla.). Unfair methods of competition and restraint of trade in connection with the sale of cosmetic supplies. Judgment for \$750.

Home Diathermy Co., Inc. (S.D.N.Y.). Misrepresentation of the therapeutic value of a diathermy device. Judgment for \$1,000.

Henry Modell et al. (S.D.N.Y.). Misrepresentation of the origin of miscellaneous merchandise. Judgment for \$400.

Moye Photographers (D.C.). Deceptive practices in connection with the sale of photographs. Judgment for \$5,000.

Seymour S. Hindman (N.J.). Misrepresentation of military clothing. Judgment for \$750 and permanent injunction compelling future obedience to the order to cease and desist.

New York Feather Co., Inc. (E.D.N.Y.). Misrepresentation of the feather and down content of pillows. Judgment for \$1,000 and permanent injunction compelling future obedience to the order to cease and desist.

Joe Fried Woolen Corporation (S.D.N.Y.). Misbranding of woolen fabrics. Judgment for \$3,000.

Northfield Mills, Inc., et al. (Vt.). Misbranding of woolen fabrics. Judgment for \$5,000.

John T. Benson (N.D.Ill.). Misrepresentation of the therapeutic benefits of a medicinal product advertised as an effective treatment for obesity. Judgment for \$1,800 and permanent injunction compelling future obedience to the order to cease and desist.

Olson Rug Company (N.D.Ill.). Misrepresentations made in connection with the interstate sale of rugs. Judgment for \$10,000.

#### Civil Penalty Cases Pending

Universal Wool Batting Corp. (S.D.N.Y.). Misbranding of wool batting.

Maurice J. Lenett (Mass.). Failure to disclose former use of parts contained in automobile springs.

Americana Corp. (Md.). Misrepresentations made in connection with the sale of encyclopedias and other books.

Fong Poy (N.D.Calif.). False representations concerning the value of a drug preparation designed for use in the treatment of various conditions.

Vulcanized Rubber & Plastics Co. (Third Circuit). Misrepresentations as to the rubber content of combs designed for use on human hair. On appeal from judgment of \$6,000 entered in the Eastern District of Pennsylvania.

Superior Wool Batting, Inc. (E.D.N.Y.). Misbranding of woolen batting.

Crown Manufacturing Co., Inc. (E.D.Pa.). Misbranding and false invoicing of woolen interlinings.

National Training Service, Inc. (Conn.). Misrepresentation of a correspondence course intended to prepare purchasers thereof for examination for civil service positions.

William C. Moore & Co. (W.D.Wash.). Misrepresentation of nursery stock, fertilizer, and planting materials.

Shay Auerbach (E.D.N.Y.) False invoicing of wool products.

United Photography Service (S.D.Calif.). Misrepresentations made in connection with the interstate sale of photographs.

In all civil penalty cases the Division prepares for transmission with the certification to the Attorney General, for filing in the U.S. district court, all the necessary pleadings and a trial memorandum, and offers full aid of its attorneys in prosecution and trial of the case. Usually the offer is accepted and the Division attorneys not only fully participate but often solely conduct the trials. They also prepare all necessary further pleadings and briefs for filing with the court, which includes requests for admissions, interrogatories, objections, motions, and court findings, and personally arrange and take all necessary oral depositions of those witnesses who cannot be subpoenaed to appear personally.

The primary objective is to obtain compliance with orders rather than to exact a large number of civil penalty judgments. This cannot be achieved without prompt application of civil penalty procedures when compliance apparently cannot be obtained otherwise.

Experience shows that a respondent may be in compliance today and in violation 3 or 4 years hence, and that without reasonable and continued surveillance approximately 70 percent of such orders would have no meaning or effect. In at least 70 percent of the compliance cases handled, it is necessary to do much more than analyze and file reports. In about two-thirds of the cases which involve continued work, they do so either because the original reports of compliance later prove unsatisfactory, or new violations are discovered.

Most orders involving restraints of trade are issued under the Clayton Act, and until July 23, 1959, when the President signed Public Law 86-107 amending section 11 of that act, had no finality unless enforced by decree by the U.S. Court of Appeals after proof of violation, and proof of a further violation was necessary for a fine in contempt. As amended, the same finality and penalties for violations apply to Clayton Act orders as apply to Federal Trade Commission Act orders, specifically exempting only court proceedings initiated under section 11 prior to the date of the enactment of the amendment.

During fiscal 1960 this Division surveyed the pricing practices of more than 70 manufacturers of steel who are subject to the Commission's cease-and-desist order issued in 1951. As a result of this survey, the Commission has undertaken further steps to determine the manner of compliance in this case.

The respondents' compliance with the Commission's order in the

Cement Institute et al. (docket 3167) is under continued surveillance. This Division has secured detailed information relating to prices, terms and conditions of sale which is now being studied and analyzed in order to make a determination as to compliance in this proceeding.

The Division instituted during fiscal 1960, 29 investigations of compliance with Clayton Act orders, 21 of which are still outstanding. A total of 173 compliance investigations were instituted and supervised by the Division, 36 of which were in connection with antimonopoly matters. The Division received from the Commission for attention to compliance 60 antimonopoly orders and 296 antideceptive orders issued during the year.

### Current Order Compliance

The most substantial portion of the Division's work consists of securing compliance reports and, where necessary, enforcing compliance with orders currently issued. As each order is issued the Division must study and analyze reports to insure that respondents adjust their business practices to conform to the Commission's cease and desist orders, and where voluntary compliance cannot be obtained, to initiate and pursue enforcement in the court.

### Statistics on Matters and Cases Handled in Fiscal 1960

"Matters" consist of (a) reports of compliance for processing; (b) complaints of alleged violation of orders; (c) conferences and opinions regarding compliance; and (d) initiating and processing preliminary inquiries into compliance. Each category of these "matters" is a distinct operation requiring substantial man-hours. In other words, the same case often requires handling several times, as is apparent from the following table showing the number of "matters" and the number of "cases" handled, and disclosing that 1,251 "matters" handled involved but 451 cases.

	Matters	Fiscal 1960
Total pending July 1, 1959	-----	1,719
Received during year	-----	1,403
		<hr/>
Total for disposition during year	-----	3,122
Disposed of during year	-----	1,251
		<hr/>
Total pending June 30, 1960	-----	1,871
	Cases	
Cases pending July 1, 1959	-----	537
Received during year	-----	533
		<hr/>
Total for disposition during year	-----	1,070
Disposed of during year	-----	451
		<hr/>
Cases pending June 30, 1960	-----	619

## OFFICE OF EXPORT TRADE

The Office of Export Trade administers the Webb-Pomerene (Export Trade) Act (15 U.S.C. § 61-65).

The legislative purpose of the act was to confer immunity from civil and criminal prosecution under the Sherman antitrust law, with proper safeguards to restraints of trade within the United States, in order to facilitate the movement of American products to foreign countries and to enable exporters to compete successfully in foreign markets.

The law sanctions U.S. business competitors to organize an export trade association for the purpose of engaging exclusively in export trade. Each such association is obliged to file with the Commission a statement giving information concerning its officers, its stockholders or members, and its place of business. It must also furnish a copy of its articles of incorporation or its contract of association.

Traditionally associations which have registered under the statute have reported a broad range of trading advantages derived from the act's permissive features. The chief benefits are realized from the absence of competition; greater economies in the profit potential of marketing; improved skills and less expense in the exploitation and expansion of foreign markets; stronger ability to negotiate foreign trade impediments and other advantages which accrue through cooperative action.

408 U.S. corporations have organized 35 export trade associations. These associations have a variety of functions. They may purchase the members' products and sell them to foreign buyers at terms agreed upon by the members. Others serve as central selling agents for their members. Some associations direct the exports of members solicited by agents established by the members abroad.

These associations export a wide variety of products, including machine tools, motion pictures, rubber tires and tubes, raw materials, ores, lumber, and agricultural products, textiles, and paperboard.

Section 4 of the act is an amendment to the Federal Trade Commission Act. It extends the jurisdiction of the Commission to unfair methods of competition in export trade even though the acts constituting such unfair practices are done overseas.

The Office of Export Trade acts as the guardian of export trade associations, always watchful that the activities, practices, and policies of the association are conducted according to law. The Office also advises American businessmen as to the formal and operational standards of the act and cooperates with and assists other bureaus of the Commission and Departments of Justice, State, and Commerce on international trade problems.

The approximate value of American products shipped abroad by export trade associations during the last 2 years is as follows:

	1958	1959
Metal and metal products -----	\$72,925,230	\$20,542,220
Products of mines and wells -----	247,154,835	142,051,226
Lumber and wood products -----	4,586,248	4,182,080
Foodstuffs -----	168,282,273	203,691,856
Miscellaneous—including abrasives, motion pictures, pencils, pulp, paper and paperboard, rubber tires and tubes, and textiles -----	522,189,938	537,239,135
Total -----	1,015,138,524	907,706,517

### LEGISLATION

As principal legal adviser to the Commission, the General Counsel, with the primary assistance of an Assistant General Counsel who specializes in this field, advises the Commission upon legislative matters.

Of primary importance to the Commission was the enactment of Public Law 86-107, the Sparkman-Celler Act, approved July 23, 1959, which amended the Clayton Act to make orders to cease and desist under that act final in the same manner as orders issued by the Commission under section 5 of the Federal Trade Commission Act. The Commission had been seeking such legislation for over 20 years.

Prior to the amendment, an order issued under the Clayton Act had no finality. If such an order was violated, the Commission then, but only then, could petition to a U.S. court of appeals for a decree of enforcement. After enforcement by the court, a further violation could subject the violator to contempt-of-court proceeding. The amendment now makes possible faster and more effective enforcement of orders issued under the Clayton Act since a violation of such an order which has become final by operation of law may be proceeded against by civil penalty suit.

Another major legislative objective failed of enactment. This was the proposal to require that notification of proposed mergers be made to the Commission by corporations of significant size engaged in interstate commerce. An important corollary provision was that of authorizing the Commission to apply to the Federal district courts for preliminary injunctions against proposed mergers or to maintain the status quo in instances where mergers have already been accomplished, pending completion of the litigation as to violation of section 7 of the Clayton Act.

While it is true that corporations contemplating mergers have the privilege of obtaining opinions from the Federal Trade Commission and the Department of Justice on the legality of such actions, this premerger consultation is not mandatory and is relatively infrequently sought. This means that the Commission must, to a large extent, rely on financial newspapers, trade journals, investment manuals, and the like for the first news of mergers.

The need for the legislation arises from the fact that, by the time the Commission can institute antimerger proceedings and effectuate appropriate orders, the merging companies may have become so intermingled that the problem of "unscrambling eggs" is encountered, or respondent corporations may divest themselves of assets acquired through merger, thus complicating the efforts of the Commission to restore premerger competitive conditions.

The Textile Fiber Products Identification Act, Public Law 85-897, enacted September 2, 1958, became effective 18 months thereafter on March 3, 1960. The act, in general, takes up where the Wool Products Labeling Act of 1939 left off, being designed to cover the field of textile fiber content labeling and advertising, except as already covered by the Wool Products Labeling Act. Although primarily for the benefit of the consumer in providing truthful disclosure of fiber content, other objectives are to provide protection to textile producers, manufacturers, and distributors from the unrevealed presence of substitutes and mixtures.

The Federal Trade Commission is authorized to enforce the act through administrative procedures provided under the Federal Trade Commission Act. Violators are subject to orders to cease and desist, and, under specified circumstances, temporary injunctions pending Commission proceedings may be sought in U.S. district courts. Misdemeanor provisions are provided for willful violations.

In the course of legislative work during fiscal 1959, the Commission reported on 103 bills and legislative proposals. In addition, oral presentation and participation was made with regard to 19 bills or items of congressional committee consideration.

## CONSULTATION

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This Bureau is responsible for executing the Commission program to secure voluntary compliance with the laws that it administers. Emphasized in this program are the prevention and correction of violations of law through education, advice, and informal negotiation.

The principal general educational tools are Trade Practice Rules and Guides. Individualized advice to business is provided through interpretations of Rules and Guides and answers to inquiries of small businessmen. Alleged law violations are corrected informally and expeditiously through the Stipulation program and Trade Practice Rule and Guide provisions.

During the year, the Commission issued Guides Against Bait Advertising and Guides Against Deceptive Advertising of Guarantees, two principal areas of consumer deception.

The Bureau, through simultaneous negotiations with major cigarette manufacturers, secured agreement to eliminate tar and nicotine claims from their advertising—a noteworthy example of industry-government cooperation to eliminate alleged deceptive advertising. This industrywide treatment avoided competitive inequities.

The same purpose—eliminating alleged misleading advertising simultaneously among competitors—prompted invitations to a group of District of Columbia furniture retailers to discuss comparative price advertising. This meeting resulted in commitments from those in attendance and several others to comply with the Guides Against Deceptive Pricing.

An effort was made to extend beyond the jewel industry the prophylactic effect of the Trade Practice Rules for Jewelry against false advertising. Representatives of leading retailers selling jewelry—department stores, chain variety stores, and chain drugstores in the eastern part of the country—were invited to a New York City meeting where the Rules and applicable Guides were discussed.

### GUIDE PROGRAM

The guide program is designed to accomplish two principal objectives: (1) To spell out in readable, easily understood language the requirements of the law applicable to different types of advertising

practices under the Federal Trade Commission Act and discriminatory practices under the Robinson-Patman Act and (2) by diligent administration of the former, to see that a maximum degree of voluntary compliance with the law is obtained. Where voluntary compliance cannot be obtained, the Guides serve the additional purpose of spotlighting persistent violations which warrant formal action.

The program had its beginning on September 15, 1955, with the issuance of the Cigarette Advertising Guides. During the year, administration of these Guides was responsible for eliminating some 62 questionable claims involving 30 different brands of cigarettes. In the most important achievement under this program the seven major manufacturers agreed to delete all tar and nicotine claims from cigarette advertising—a noteworthy example of industry-government cooperation to eliminate a practice considered deceptive and confusing to the public.

During the year, administration of the Tire Advertising Guides, which became operative August 27, 1958, continued with the handling of 204 cases, 50 of which were closed upon receipt of adequate assurances of discontinuance and revised advertising. The Guides were particularly successful in obtaining compliance with the requirement that advertisers of used tires clearly disclose that they are not new products, especially regarding retreaded tires, where confusing language had been the rule rather than the exception. Also, efforts were continued to insure that all advertisers of tires nondeceptively disclose all material terms and conditions of their guarantees.

Compliance work under the Guides Against Deceptive Pricing, adopted October 2, 1958, continued at a rapidly expanding rate. Compliance matters handled during fiscal 1960 doubled those handled during the preceding year. With the workload increasing at such a pace, it became imperative that means be devised to obtain swifter and wider compliance on an industry and area-wide basis. This was necessary both for the effectiveness of the Guides and to minimize competitive inequities which sometimes result from the initiation of formal cases on an individual basis.

The first step in this direction occurred when a group of furniture retailers in the District of Columbia were invited to meet with our staff to discuss comparative price advertising. Without reaching any conclusions as to the legality of their past advertising, the staff invited questions about the proper use of comparative price claims, explained the requirements of the Guides, and then solicited voluntary agreements to comply with the Guides. The results of this meeting have been such that we are now considering plans for continued use of the same procedure in the District of Columbia and other areas of the country which appear to offer similar opportunities for success.

Additionally, industrywide inquiries were launched into the scope and effect of particular types of representations, such as list prices, in order to effect compliance on a simultaneous basis throughout whole industry groups, thus further attempting to minimize competitive inequities while speeding up our work.

Evidence of the continued interest in these Guides throughout the country can be found in the fact that approximately 15,000 additional copies were mailed in response to 388 requests. Combined with the copies which have been reproduced and distributed by trade associations and other business enterprises at their own expense, we estimate that there are over one-half million copies of these Guides now in the hands of the business community.

Abandonment or correction of misleading or deceptive claims was obtained in 117 matters under these Guides and the files closed upon receipt of revised advertising. Seventy-eight matters were referred to the Bureau of Investigation for further handling.

During the year the Bureau also prepared two other Guides, subsequently issued by the Commission, and participated in the preparation of a third.

On November 24, 1959, the Commission adopted its four-point Guides Against Bait Advertising for use of its staff in the evaluation of claims which appear to be part of a bait and switch scheme. By putting the spotlight on this malpractice, consumers are made aware of how the trick works and can avoid being victimized. The scheme involves advertising a popular product at a sensationally low price to lure customers into a store so they can be switched to higher-priced merchandise. A cheap trick that can be recognized and thus avoided by consumers is not profitable to those who propose to engage in it.

Publication of these Guides met with the same enthusiastic response from the public as greeted issuance of the other Guides. From the date of issuance to the end of the fiscal year, 18,925 copies of these Guides were mailed in response to 507 requests, and industry members and other business enterprises reprinted and distributed countless additional copies at their own expense.

Realizing the claim that a product is guaranteed constitutes another very persuasive argument to the potential customer and that a great deal of confusion has developed over the proper use of guarantees in advertising, the Commission on April 29, 1960, adopted its seven-point Guides Against Deceptive Advertising of Guarantees. The Guides were intended to be beneficial in ending what has become an increasing source of irritation and confusion both to a bewildered public and to sellers. Merely to describe an article as guaranteed is insufficient under the Guides. The adviser must disclose clearly and

conspicuously just what is covered by the guarantee, who stands back of it, how it will be honored, and any material conditions or limitations which are attached.

Administration of these Guides in the 2 months following their issuance has immediately involved some of the country's leading advertisers and many of their best known products. Negotiations to bring their advertisements into conformity with the Guides are currently in progress. These Guides also have met with the now typical industry response. In 2 months' time, 31,582 copies have been mailed in response to 969 requests; and again, countless numbers have been privately reprinted and distributed.

We have also learned that some trade associations are now reprinting all of the Guides together in pamphlet form for distribution to their members, thus equipping them with a handbook of principles applicable to their practices. For example, the American Home Laundry Manufacturers Association reproduced and distributed 100,000 copies of a brochure containing our Deceptive Pricing, Bait Advertising, and Guarantee Guides.

On May 19, 1960, the Commission issued its Guides For Advertising Allowances and Other Merchandising Payments and Services, which are interpretive of sections 2 (d) and (e) of the Clayton Act, as amended by the Robinson-Patman Act. These Guides were prepared by a Commission-appointed task force, composed of representatives from all the Bureaus, and represent the first application of the guide procedure to this complex area of trade regulation. Previous guides have been devoted to various forms of misrepresentations in advertising. Distribution of these Guides has been handled by this Bureau, which has also been responsible for handling the interpretive work generated by them. In the 6 weeks following their issuance, we have distributed 35,528 copies in response to 1,248 requests.

#### DIVISION OF TRADE PRACTICE CONFERENCES

This Division administers the Commission's Trade Practice Conference programs for industries, the objective of which is to obtain and maintain industrywide voluntary compliance with laws administered by the Commission. The compliance so effected lessens the need for individual complaint proceedings and eliminates the delay, expense, and competitive inequity which is inescapably attendant on such proceedings. The work of this Division includes (1) the establishment and subsequent needed revisions of trade practice rules for industries for the purpose of supplying guidance as to legal requirements applicable to trade practices and business behavior in the respective industries for which the rules have applicability, and (2) administration of promulgated rules.

## Rulemaking Work

While a proceeding to establish trade practice rules may be authorized on the Commission's own motion, proceedings for this purpose are usually authorized pursuant to an application from a representative group in an industry. When an application is received, the Division considers the proposal from the standpoint of likelihood of the proposed proceeding effecting substantial improvement in law observance by the industry members, and makes a report thereon with recommendations to the Commission. The proceeding is authorized only when it appears to the Commission that it will constructively advance the best interests of the industry on sound competitive principles in consonance with public policy and bring about more adequate and equitable observance of laws under which the Commission has jurisdiction.

Following authorization by the Commission of a trade practice conference proceeding for an industry, the Division schedules and conducts a conference at a city convenient for attendance by the greatest number of the industry membership. All members of the industry are invited and given an opportunity to propose and discuss appropriate trade practice rules for their industry. After consideration of all matters presented at such conference and other available relevant information, the Division prepares a draft of proposed rules in the form deemed appropriate and submits them to the Commission for release for public hearing. Copies of the proposed rules are mailed to all members of the industry, and they, as well as all other interested or affected parties, including consumer groups, are invited to present their views concerning the coverages and requirements of such rules, either orally at the public hearing or in writing. After the hearing, a study is made of the record of the entire proceeding, and final rules for the industry are submitted by the Division to the Commission with recommendation that they be approved and promulgated. While in most of the proceedings but one set of proposed rules is released and one hearing held, there are occasions when there are additional releases and hearings. During the proceedings and before the final hearing, informal conferences with industry committees are frequently held for the purpose of working out sound and workable rule provisions.

## Accomplishments During Fiscal 1960

During fiscal 1960, the Commission promulgated new trade practice rules for the Tire and Tube Repair Material Industry, revised rules for the Woodworking Machinery Industry and the Jewelry Industry, and advanced a number of pending trade practice conference proceedings for other industries. Eleven new applications for trade practice conference proceedings were received, and at the end

of the year proceedings for the establishment of rules for 28 industries were pending.

The trade practice rules promulgated for the Tire and Tube Repair Material Industry furnish needed guidance as to legal requirements, particularly those contained in the Robinson-Patman Act, which are applicable to trade practices in the industry. To clarify requirements of the Robinson-Patman Act, these rules contain examples of violations of such act including some tailored for this particular industry.

Rules for the Woodworking Machinery Industry as revised reflect present legal requirements and cover current trade practices in the industry. The old rules for this industry were promulgated in May 1933, and did not accurately reflect present legal requirements.

Amendment of the rules for the Jewelry Industry was for the purpose of specifying the minor and functional parts of jewelry items which should be regarded as exempt from certain quality markings and representations.

Rules for the Rayon and Acetate Textile Industry, Linen Industry, and Silk Industry were rescinded in view of their limited application due to enactment of the Textile Fiber Products Identification Act, which became effective on March 3, 1960, and the Rules and Regulations issued thereunder. This action was taken after consultation and meetings with representatives of the industry members affected. Included in the rescinded rules for the Silk Industry was a rule requiring disclosure of the presence of metallic weighting in silk or a silk product. In view of the importance of this rule to the members of the Silk Industry and consumer-purchasers, and the nonapplicability of the new act to metallic weighting, an Administrative Interpretation setting forth the requirements for disclosure of metallic weighting in such products was formulated by the Division and recommended for adoption by the Commission concurrent with its rescission of the Silk Rules. This Administrative Interpretation was adopted by the Commission and published in the Federal Register.

Trade practice proceedings for the establishment of revised rules for the Hosiery Industry were advanced to the point that report on final rules was submitted by the Division. (It is expected that such rules will be promulgated in August 1960.) Trade practice conferences were held to establish rules for the Fluorocarbons Industry and Hexagon Head Cap Screw Industry and it is expected that proposed rules for these industries will be released for public hearing at an early date. The application received for proceedings to establish rules for the Residential Aluminum Siding Industry was approved by the Commission pursuant to the report and recommendations of the Division, and it is contemplated that a trade practice conference for this industry will be held in the fall of 1960.

Additional applications for trade practice conferences received and given attention during the year by the Division were filed for the Wholesale Optical Industry (Revision), Hearing Aid Industry (Revision), Fresh Citrus Fruit Industry (Florida), Stationery Industry, and Toy Industry. The applications for the last two industries mentioned were filed after representatives of the Division addressed members of such industries at their association meetings. Staff members of the Division have since conferred with representatives of all such industries to discuss matters involved or assist in the performance of necessary preliminary work.

Other pending proceedings advanced during the year include those for the Metallic Watch Band Industry (formerly designated "Watch Attachments Industry"), Luggage and Related Products Industry, and Feather and Down Industry.

The Division's activities during the year also included informal conferences with industry groups and trade association committees and executives in connection with prospective proceedings for the Smooth Surface Floor Coverings, Plastic Weatherstripping, Poultry Hatching and Breeding, and Baking Industries, in Washington, D.C., New York City, and elsewhere. This work required the attendance of members of the Division's staff at a number of industry meetings.

#### Rule Administration Work

Of parallel importance to its "rulemaking" work were the Division's activities in obtaining and maintaining industrywide voluntary compliance with the trade practice rules for 161 industries in effect during the year. This included the maintenance of a close working liaison with industry members and their trade associations; furnishing requested rule interpretations and advice to trade association executives and industry members as to application and requirements of the rules with respect to specific practices, both through correspondence and by office discussions; issuing timely warnings on courses of business conduct which, if employed, would run afoul of rule provisions; conducting group and panel discussions on subjects covered by rules and on subjects proposed for rule coverage; and effecting prompt and voluntary discontinuance in appropriate circumstances of practices of individual industry members found to contravene requirements of rules. During the year satisfactory disposition was effected of 774 of the 1,135 rule compliance matters given attention by the Division.

The consultative service afforded under rules during the year, not only by correspondence but also at industry meetings, has been an important factor in keeping industry practices in accord with legal requirements. By correspondence alone Division staff members answered over 200 inquiries as to the application of the law to specific practices, including refusal to sell, exclusive dealing, price discrimina-

tion, illegal brokerage, discriminatory promotional allowances, and other types of monopolistic and restraint of trade practices as well as deceptive labeling and advertising practices.

Educational work designed to effect voluntary compliance included a conference with more than 100 representatives of large department stores, chain drug stores and chain variety stores in New York City on June 10, 1960. The agenda included a discussion by Division staff members of the trade practice rules applicable to the advertising and sale of a wide variety of jewelry articles and watches as well as the Commission's Guides Against Deceptive Pricing, Guides Against Deceptive Advertising of Guarantees, Guides Against Bait Advertising, and Guides for Advertising Allowances and Other Merchandising Payments and Services. Many business houses learned for the first time the requirements of the rules and guides and of their responsibility in the sale of jewelry, watches, and other commodities.

Staff members have also attended annual meetings of industry associations and other industry meetings to discuss laws administered by the Commission as interpreted in trade practice rules and to counsel industry members as to how these laws apply to specific courses of business conduct.

Statistics relating to rule compliance activities during fiscal 1960 are as follows:

Compliance matters pending July 1, 1959 -----	551
New compliance matters initiated during the year -----	584
	-----
Total for disposition -----	1,135
Disposed of during year -----	774
	-----
Pending June 30, 1960 -----	361

Very substantial rule compliance work was accomplished during the year with respect to industry practices, including those of the following industries:

**Radio and Television Industry.** In this field attention was given to practices on the part of sellers at all levels of distribution with primary emphasis on effecting discontinuance of deception of purchasers through failure to reveal when picture tubes contain used parts, and through misrepresentation of the actual viewable area of picture tubes. Over 80 instances of rule compliance were effected during the year.

**Jewelry and Watch Industries.** Among practices corrected in these industries were: failure to disclose foreign origin of products; misrepresentation of the gold content of watches and jewelry items; misrepresenting that watches are guaranteed, shockproof and waterproof; use of the words "ruby," "emerald," "sapphire," etc., to describe synthetic and imitation stones; and overstating the "usual" or "reg-

ular" price of merchandise so that the so-called "reduced" price appears a bargain.

Bedding Manufacturing and Wholesale Distributing Industry. Persistent activity in administration of these rules has resulted in further substantial progress in eliminating retail price misrepresentation in advertising and by preticketing, and in halting advertising and labeling claims that products are guaranteed without disclosure of the nature and extent of the guarantee and the obligation and identity of the guarantor.

Private Home Study Schools. Administration of the rules for this industry has eliminated a variety of false and misleading practices including misuse of "help wanted" advertising in obtaining student enrollment in various courses of instruction; falsely representing and otherwise implying governmental and civil service connections; and falsely exaggerating employment and earnings opportunities.

Fountain Pen and Mechanical Pencil Industry. Continuing rule administration efforts in this industry have substantially curtailed the practices of preticketing industry products with fictitious prices and misrepresenting their gold content.

Corset, Brassiere, and Allied Products Industry. Weight reducing claims and advertising falsely implying weight reducing properties of industry products continued to be a "sore spot" in the industry, necessitating corrective action under the rules.

Cosmetic and Toilet Preparations Industry. Failure to reveal domestic compounding, mixing or blending of toilet waters and colognes composed of foreign extract to which domestic alcohol, etc., is added in this country, and which are sold under foreign names, words, and phrases, required considerable attention during the year.

Nursery Industry. False claims as to value, rapidity of growth, size, color, cultivation, hardiness, fruiting, and place of growth of industry products were given attention under the rules and in many instances their elimination was effected on a voluntary basis. Misuse of the word "free" also received attention.

Poultry Hatching and Breeding Industry. Administrative correction was effected under these rules with respect to such practices as misuse of the multiple "A" designations in "chick" advertising and the use of fictitious names for chick outlets in the sale of chicks and hatching eggs.

Statistics relating to rule interpretation work during fiscal 1960 are as follows:

Rule interpretation matters pending July 1, 1959	-----	36
Rule interpretations requested during fiscal 1960	-----	246
Rule interpretations effected during fiscal 1960	-----	242
Rule Interpretation matters pending June 30, 1960	-----	40

## DIVISION OF STIPULATIONS

In furtherance of the program for obtaining voluntary law observance, this Division negotiates agreements or stipulations providing for the discontinuance of practices considered to be unlawful under Commission statutes.

When approved by the Commission a stipulation becomes effective and is a matter of public record. The Division then obtains from the stipulating parties a report showing how they are complying with their agreements. It also conducts a systematic check on compliance with older stipulations and initiates corrective action in cases of noncompliance.

Being informal in nature and without technical procedural requirements, the stipulation method provides a quick, economical means of law enforcement in certain types of cases.<sup>1</sup>

### Stipulation Procedure

Matters appropriate for stipulation negotiations are referred for that purpose after investigation by the Bureau of Investigation. The party believed from the investigation to have engaged in unlawful practices is then furnished with a statement of the practices in question and afforded an opportunity to present additional information pertinent to the issues and to discuss the matter informally with a Division representative. He is also given an opportunity to enter into a stipulation whereby he agrees to discontinue those practices shown by the facts to be illegal.

The stipulation procedure contemplates that parties act promptly if they wish to have consideration given to this method of disposition. In some factual situations a matter may be further expedited by the elimination of steps which are unnecessary under the particular circumstances.

In fiscal 1960 the Division negotiated and reported to the Commission 112 stipulations. The Commission approved 103 stipulations and 9 were pending with the Commission at the end of the period. The following is a summary of stipulation negotiations during the year:

Cases pending with the Division July 1, 1959	-----	45
Cases received by the Division during fiscal 1960	-----	128
Total	-----	<hr/> 173

<sup>1</sup> Opportunity to enter into a stipulation is not afforded when the alleged violation of law involves false advertising of food, drugs, devices, or cosmetics which are inherently dangerous, the sale of fabrics and wearing apparel which are so highly flammable as to be dangerous, or the suppression or restraint of competition through conspiracy or discriminatory or monopolistic practices. The Commission reserves the right in all cases to withhold the privilege of disposition by voluntary agreement.

## Disposition

Reported to the Commission for action on executed stipulations .....	112
Referred to the Bureau of Investigation .....	21
Referred to the Bureau of Litigation .....	3
Total .....	136
Cases pending with the Division June 30, 1960 .....	37

### Stipulated Practices

Practices covered by stipulations approved during the fiscal year included the following:

In 15 stipulations manufacturers or distributors of a variety of products, including clocks, refrigerators, water conditioning equipment, thermometers, surgical instruments, and automobile batteries, agreed not to represent that these products are guaranteed without clearly disclosing the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder.

In three stipulations advertisers of drug preparations agreed to stop representing that their products will cure arthritis or rheumatism, or will have any therapeutic effect on their symptoms in excess of affording temporary relief of minor aches or pains.

Eight manufacturers or distributors agreed to stop using deceptive pricing claims in connection with the sale of their various products.

Three marketers of reclaimed lubricating oil agreed to disclose in advertising and labeling that the oil has been previously used.

In 23 stipulations manufacturers or distributors of fur products agreed to discontinue illegal practices, including misbranding, false invoicing, and false or deceptive advertising.

Five manufacturers or distributors of products for plating various kinds of metals agreed to stop misrepresenting the results which may be achieved by use of their products.

Two distributors of wallets agreed to stop representing that wallets made wholly or in part of substance other than leather, are made of leather.

Four sellers of various imported products, including clocks, barometers, tools and pipefittings, agreed to disclose clearly and conspicuously the country of origin of these products.

Fifteen manufacturers or distributors of wool products agreed to label their products as required by the Wool Products Labeling Act.

A manufacturer of automobile clutches agreed to disclose that certain of its clutches contained previously used parts.

A paint manufacturer agreed to stop representing that use of its paint will cut costs, time, or work in half.

An automobile dealer agreed not to misrepresent its finance rates or other terms or conditions under which automobiles may be purchased.

A distributor of cameras agreed to make prompt refund of purchase money to customers, upon demand, when merchandise ordered by them is not in stock or available for prompt delivery, and to stop using harassing tactics in an effort to coerce customers into accepting substitute merchandise.

An advertiser of a vitamin-mineral preparation agreed to stop representing that the product will prevent tooth or bone decay.

A manufacturer and a distributor of combs composed chiefly of plastic agreed not to represent that their combs were made of rubber.

A shoe manufacturer agreed to stop representing that its shoes will keep the feet healthy or will correct or prevent any defect, deformity, or abnormality of the feet.

A safety razor manufacturer agreed not to represent that razor blades are given "free" without clearly disclosing the conditions under which the blades are obtainable.

An advertiser of a medicinal preparation in tablet form agreed to stop representing that its product will cause the kidneys to work properly.

A magazine publisher agreed to stop employing deceptive means in attempting to induce payment of past due accounts.

A distributor of mattresses agreed not to ship any merchandise not identical in all respects to that ordered by a purchaser, except with the consent of the purchaser.

A distributor of a vibrating device agreed to stop claiming that the product is of value in treating diseases or disorders of the nervous system or circulatory system.

A distributor of hotel supplies agreed to stop representing that it manufactures the merchandise sold by it.

A manufacturer of trusses agreed not to represent that the product will correct or cure backache.

A perfume manufacturer agreed not to use French names for its perfumes without clearly disclosing that the products were manufactured in the United States.

A distributor of slats used in venetian blinds agreed to stop representing that its product has been approved by the U.S. Government.

A seller of surplus Army and Navy goods agreed to stop representing that his entire stock of an article is Army or Navy surplus.

### Initial Compliance

Reports showing satisfactory compliance with 112 newly approved stipulations were received and filed during the year. The files in eight matters in which compliance was not considered satisfactory or further investigation was needed were referred to the Bureau of Investigation.

### Compliance Check

The program for checking compliance with older stipulations produced the following results:

On hand July 1, 1959	29
Initiated or received from the Bureau of Investigation	164
Total	193
Filed as showing compliance	130
Reported to the Commission with recommendation for filing after voluntary correction of violations	8
Referred for further attention	17
Total	155
Pending June 30, 1960	38

### DIVISION OF SMALL BUSINESS

The primary function of this Division is to enable the Commission to more fully assist small business in obtaining the protection, relief, and guidance afforded under the statutes administered by it.

In its operations the Division:

1. Advises small businessmen as to the requirements of the statutes administered by the Commission;
2. Gives informal advice and opinions to small businessmen having problems as to how they should conduct their businesses to properly comply with the statutes administered by the Commission;
3. Advises small businessmen as to the proper method of preparing applications for complaint against illegal acts and practices of competitors, suppliers, and others;
4. Assists in expediting Commission procedure by periodic status checks with other Bureaus and Divisions in matters arising in this Division involving practices adversely affecting small businesses;
5. Performs liaison functions with the House and Senate Select Committees on Small Business, the Small Business Administration and other departments and agencies of Government dealing with the problems of small business.

Inquiries which fall within the primary jurisdiction or responsibilities of other governmental departments and agencies are referred to them for appropriate attention. If the information requested is known to be available at a nongovernmental source, the inquirer is so advised.

### Description of Work

The problems of small businessmen presented to the Division involve both unfair and deceptive acts and practices and matters in the

antitrust field. The greater part of the Division's work is giving informal advice and opinions on questions relating to the legality of courses of business practices in which the inquirer either is engaging or intends to engage, or which competitors, suppliers, and others are engaging. Each problem is given the necessary research, consultation, or liaison work required. The advice and opinions furnished are supported by citations and pertinent documents where appropriate.

In rendering the services available in this Division, the small businessman, who might not otherwise have the resources to compete in areas where unfair or restrictive business practices exist, is given the protection afforded under all the statutes administered by the Commission.

### Statistical Summary

Matters in process July 1, 1959 .....	20
Matters received during fiscal year 1960 .....	547
Matters completed during fiscal year 1960 .....	513
Matters in process June 30, 1960 .....	54

Of the 513 matters completed during the year, 150 were antimonopoly, 303 were antideceptive, and 60 were miscellaneous. These matters also included 126 personal conferences. In addition, the Division handled 116 general matters assigned to it for special handling.

## ECONOMICS

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The functions of this Bureau are to give economic and statistical assistance to the Commission in its investigative and trial work as called for, and to make economic studies for publication in response to requests by the President, by Congress, or by the Commission. Its research work is conducted through the Division of Economic Evidence and Reports.

### DIVISION OF ECONOMIC EVIDENCE AND REPORTS

The assistance given by personnel of the Division to other bureaus of the Commission as required consisted of preparing economic exhibits, analyzing economic evidence, compiling statistical materials, and assisting in the formulation of requests for economic data.

The economic report on concentration trends in the cement industry, begun in 1958, at the end of the fiscal year is being revised and brought up to date for possible publication.

Pursuant to resolution of October 9, 1958, the first phase of the Economic Inquiry into Food Marketing was conducted in the fiscal year 1960. Returns from questionnaires sent to chainstores, voluntary group wholesale grocers, and retailer-owned cooperative organizations provided basic data for analysis. The final report, based upon these and supporting materials was entitled "Part I—Concentration and Integration in Retailing."

The 338 page report points up the growing power of the corporate chains (companies with 11 or more stores) and the decline of the independent grocer. However, it concludes that retailer-owned cooperatives and wholesaler-sponsored "voluntary groups" of retailers "have shown a capacity for effective competition with the corporate chains."

Almost 70,000 food retailers were members of either cooperatives or voluntary groups in 1958, the report states. Their combined share of total national food sales for that year was estimated as approximately 33 percent, compared with 38 percent for corporate chains.

The growth of food chains and organized groups of independent retailers at the expense of unaffiliated grocers was particularly noticeable in 15 metropolitan areas selected for special study.

According to the report, corporate chains increased their share of total food sales in these areas from 29 percent in 1948 to 44 percent in 1958. Retailer-owned cooperative member stores increased their share from 8 to 19 percent, and the voluntary group stores from 5 to 12 percent. Unaffiliated retailers, meanwhile, dropped from 58 to 25 percent. The report adds that the figures for cooperative, voluntary, and unaffiliated stores are broad approximations based on estimates, but the margin of error is not so great as to leave any doubt as to the overall trend.

The report also deals with other important changes which have occurred in food retailing and distribution since the Commission's chainstore studies of 1931-34. These include (1) a higher degree of processing by food manufacturers, which has materially lightened the work of the housewife; (2) improvements in transportation, handling, food preserving, and distribution methods generally; (3) a continuing shift from separate meat, produce, and grocery stores to one-stop food stores; (4) replacement of smaller stores by supermarkets, expansion in size, equipment, and number of items carried by supermarkets, and location of supermarkets in new shopping centers; and (5) the spread of self-service throughout food retailing.

The report estimates the questionnaires secured data on retail stores with about 90 percent of 1958 grocery store sales. Field interviews also were conducted.

In January 1960 planning was begun on part II of the Economic Inquiry into Food Marketing. The objective of part II is to push further the part I analysis and to show the effect of concentration and integration through mergers and otherwise on competitive practices such as promotional and brokerage allowances; uniform, and possibly collusive, pricing; discrimination as to size of purchasers; and trends in private labels in all steps of the distribution of frozen foods and canned food, but with special emphasis on the distribution through chainstores. It is felt that this broad but penetrating approach will bring to light significant trends and relationships, internal and external, in this segment of the economy.

## APPROPRIATIONS AND FINANCIAL OBLIGATIONS

### FUNDS AVAILABLE FOR THE FISCAL YEAR 1960

Funds available to the Commission for the fiscal year 1960 amounted to \$6,840,000. Public Law 86-255, 86th Congress, approved September 14, 1959.

#### Obligations by activities, fiscal year 1960

1. Antimonopoly:		
Investigation and litigation	-----	\$2,946,000
Economic and financial reports	-----	586,600
Trade practice conferences, industry guides, and small business	-----	110,100
2. Deceptive practices:		
Investigation and litigation	-----	1,635,700
Trade practice conferences, industry guides, and small business	-----	220,300
Textile and fur enforcement	-----	516,200
Lanham Act and insurance	-----	800
3. Executive direction and management	-----	429,200
4. Administration	-----	394,600
		6,839,500
Total	-----	

#### Settlements Made Under Federal Tort Claims Act

During the fiscal year 1960 the Commission paid no claims nor were any claims pending.

#### Comparative Appropriations

Appropriations available to the Commission for the past 3 fiscal years and obligations for the same period, together with the unobligated balances, are shown in the table below. The table also lists the number of employees as of June 30 of each year.

Year	Number of employees	Nature of appropriations	Appropriations	Obligations	Balance
1958 -----	738	Lump sum -----	\$6,185,500	\$6,182,212	\$3,288
1959 -----	732	Lump sum -----	6,488,000	6,481,059	6,941
1960 -----	782	Lump sum -----	6,840,000	6,839,500	500

## APPENDIXES

## Federal Trade Commissioners—1915-60

Name	State from which appointed	Period of service
Joseph E. Davies	Wisconsin	Mar. 16, 1915 – Mar. 18, 1918.
Edward N. Hurley	Illinois	Mar. 16, 1915 – Jan. 31, 1917.
William J. Harris	Georgia	Mar. 16, 1915 – May 31, 1918.
Will H. Parry	Washington	Mar. 16, 1915 – Apr. 21, 1917.
George Rublee	New Hampshire	Mar. 16, 1915 – May 14, 1916.
William B. Colver	Minnesota	Mar. 16, 1917 – Sept. 25, 1920.
John Franklin Fort	New Jersey	Mar. 16, 1917 – Nov. 30, 1919.
Victor Murdock	Kansas	Sept. 4, 1917 – Jan. 31, 1924.
Huston Thompson	Colorado	Jan. 17, 1919 – Sept. 25, 1926.
Nelson B. Gaskill	New Jersey	Feb. 1, 1920 – Feb. 24, 1925.
John Garland Pollard	Virginia	Mar. 6, 1920 – Sept. 25, 1921.
John F. Nugent	Idaho	Jan. 15, 1921 – Sept. 25, 1927.
Vernon W. Van Fleet	Indiana	June 26, 1922 – July 31, 1926.
Charles W. Hunt	Iowa	June 16, 1924 – Sept. 25, 1932.
William E. Humphrey	Washington	Feb. 25, 1925 – Oct. 7, 1933.
Abram F. Myers	Iowa	Aug. 2, 1926 – Jan. 15, 1929.
Edgar A. McCulloch	Arkansas	Feb. 11, 1927 – Jan. 23, 1933.
Garland S. Ferguson	North Carolina	Nov. 14, 1927 – Nov. 15, 1949.
Charles H. March	Minnesota	Feb. 1, 1929 – Aug. 28, 1945.
Ewin L. Davis	Tennessee	May 26, 1933 – Oct. 23, 1949.
Raymond B. Stevens	New Hampshire	June 26, 1933 – Sept. 25, 1933.
James M. Landis	Massachusetts	Oct. 10, 1933 – June 30, 1934.
George C. Mathews	Wisconsin	Oct. 27, 1933 – June 30, 1934.
William A. Ayres	Kansas	Aug. 23, 1934 – Feb. 17, 1952.
Robert E. Freer	Ohio	Aug. 27, 1935 – Dec. 31, 1948.
Lowell B. Mason	Illinois	Oct. 15, 1945 – Oct. 31, 1956.
John Carson	Michigan	Sept. 28, 1949 – March 31, 1953.
James M. Mead	New York	Nov. 16, 1949 – Sept. 25, 1955.
Stephen J. Spingam	New York	Oct. 25, 1950 – Sept. 25, 1953.
Albert A. Carretta	Virginia	June 18, 1952 – Sept. 25, 1954.
Edward F. Howrey	Virginia	April 1, 1953 – Sept. 12, 1955.
John W. Gwynne	Iowa	Sept. 26, 1953 – May 31, 1959.
Robert T. Secrest	Ohio	Sept. 26, 1954 –.
Sigurd Anderson	South Dakota	Sept. 12, 1955 –.
William C. Kern	Indiana	Sept. 26, 1955 –.
Edward T. Tait	Pennsylvania	Nov. 2, 1956 –.
Earl W. Kintner	Indiana	June 9, 1959 –.

## Statutes Pertaining to the Federal Trade Commission

The authority and powers of the Federal Trade Commission in the main are drawn from the following statutes:

1. Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717), and subsequently amended as Indicated below.
2. Clayton Act, sections 2, 3, 7, 8 and 11, approved October 15, 1914 (38 Stat. 730, 731, 732), amended as Indicated below.
3. Webb-Pomerene Export Trade Act, approved April 10, 1918 (40 Stat. 516).
4. Wheeler-Lea Act, approved March 21, 1938 (52 Stat. 111), amending the Federal Trade Commission Act.
5. Robinson-Patman Act, approved June 19, 1936, and amendment thereto approved May 26, 1938 (49 Stat. 1526; 52 Stat. 446), revising and extending section 2 of the Clayton Act.
6. Wool Products Labeling Act of 1939, approved October 14, 1940 (54 Stat. 1128).
7. Public Law 15, 79th Congress, approved March 9, 1945, "An Act to express the Intent of the Congress with reference to the regulation of the business of insurance" (59 Stat. 33).
8. Lanham Trade Mark Act, approved July 5, 1946 (60 Stat. 427).
9. Oleomargarine Act, approved March 16, 1950, amending Section 5 of the Federal Trade Commission Act respecting civil penalties, and section 15 respecting misleading advertisement of oleomargarine or margarine (64 Stat. 20).
10. Public Law 899, 81st Congress, approved December 29, 1950, the so-called antimerger legislation, amending and extending section 7 of the Clayton Act. (64 Stat. 1125).
11. Fur Products Labeling Act, approved August 8, 1951 (65 Stat. 175).
12. Flammable Fabrics Act, approved June 30, 1953, and amendment thereto approved August 23, 1954 (67 Stat. 111; 68 Stat. 770).
13. Public Law 85-909, 85th Congress, approved September 2, 1958 (72 Stat. 1749).
14. Textile Fiber Products Identification Act, approved September 2, 1958 (72 Stat. 1717).

## Federal Trade Commission Act

[Public No. 203—63d Congress, as amended by Public—No. 447—75th Congress, as amended by Public—No. 459—81st Congress, as amended by Public—No. 542—82d Congress, as amended by Public—No. 85-791—85th Congress, as amended by Public—No. 85-909—85th Congress]<sup>1</sup>

[H.R. 15613, S. 1077, H.R. 2023, H.R. 5767, H.R. 6788 and H.R. 9020]

An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes

SECTION 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby

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<sup>1</sup> The act is published as also amended by Public No. 706, 75th Cong. (see footnote 7), and as further amended, as above noted, by Public No. 459, 81st Cong., ch. 61, 2d session, H.R. 2023 (An Act to regulate oleomargarine, etc.), approved Mar. 16, 1950, and effective July 1, 1950 (see footnotes 9, 12, and 13).

created and established, to be known as the Federal Trade Commission (hereinafter referred to as the commission), which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this Act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed: Provided, however, That upon the expiration of his term of office a Commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. The commission shall choose a chairman from its own membership.<sup>2</sup> No commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the commission shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

The commission shall have an official seal, which shall be judicially noticed.

SEC. 2. That each commissioner shall receive a salary of \$10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States.<sup>3</sup> The commission shall appoint a secretary, who shall receive a salary of \$5,000 a year,<sup>4</sup> payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.<sup>5</sup>

With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the commission may from time to time find necessary for the conduct of its work, all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the commission and by the Civil Service Commission.

All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commission.

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<sup>2</sup> Under the provisions of section 3 of Reorganization Plan No. 8 of 1950, effective May 24, 1950 (as published in the Federal Register for May 25, 1950, at p. 3175), the functions of the Commission with respect to choosing a chairman from among the membership of the Commission were transferred to the President. Under said plan, prepared by the President and transmitted to the Senate and House on Mar. 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, there were also transferred to the Chairman of the Commission, subject to certain limitations, "the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds."

<sup>3</sup> The salary of the Chairman was fixed at \$20,500 and the salaries of the other four Commissioners at \$20,000 by Sec. 105 (9) and Sec. 106 (a) (45), respectively, of Public Law 854, 84th Cong., ch. 804, 2d sess., H.R. 7619 (An Act to adjust the rates of compensation of the heads of the executive departments and of certain other officials of the Federal Government, and for other purposes), approved July 31, 1956.

<sup>4</sup> The salary of the Secretary is controlled by the provisions of the Classification Act of 1923, approved Mar. 4, 1923, 42 Stat. 1488, as amended, which likewise generally controls the compensation of the employees.

<sup>5</sup> See preceding footnote.

Until otherwise provided by law, the commission may rent suitable offices for its use.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the commission.<sup>6</sup>

SEC. 3. That upon the organization of the commission and election of its chairman, the Bureau of Corporations and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist; and all pending investigations and proceedings of the Bureau of Corporations shall be continued by the commission.

All clerks and employees of the said bureau shall be transferred to and become clerks and employees of the commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the commission, and all unexpended funds and appropriations for the use and maintenance of the said bureau, including any allotment already made to it by the Secretary of Commerce from the contingent appropriation for the Department of Commerce for the fiscal year nineteen hundred and fifteen, or from the departmental printing fund for the fiscal year nineteen hundred and fifteen, shall become funds and appropriations available to be expended by the commission in the exercise of the powers, authority, and duties conferred on it by this Act.

The principal office of the commission shall be in the city of Washington, but it may meet and exercise all its power at any other place. The Commission may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

SEC. 4. The words defined in this section shall have the following meaning when found in this Act, to wit:

"Commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any States or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

"Corporation" shall be deemed to include any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, which is organized to carry on business for its own profit or that of its members, and has shares of capital or capital stock or certificates of interest, and any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, without shares of capital or capital stock or certificates of interest, except partnerships, which is organized to carry on business for its own profit or that of its members.

"Documentary evidence" includes all documents, papers, correspondence, books of account, and financial and corporate records.

"Acts to regulate commerce" means the Act entitled "An Act to regulate commerce," approved February 14, 1887, and all Acts amendatory thereof and supplementary thereto and the Communications Act of 1934 and all Acts amendatory thereof and supplementary thereto.

"Antitrust Acts," means the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; also sections 73 to 77, inclusive, of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894; also the Act entitled "An Act to amend sections 73 and 76 of the Act of August 27, 1894, entitled 'An Act to reduce taxation, to provide revenue

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<sup>6</sup> Auditing of accounts was made a duty of the General Accounting Office by the Act of June 10, 1921, 42 Stat. 24.

for the Government, and for other purposes," approved February 12, 1913; and also the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914.

SEC. 5. (a) (1) Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful.

(2) Nothing contained in this Act or in any of the Antitrust Acts shall render unlawful any contracts or agreements prescribing minimum or stipulated prices, or requiring a vendee to enter into contracts or agreements prescribing minimum or stipulated prices, for the resale of a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, when contracts or agreements of that description are lawful as applied to Intrastate transactions under any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia In which such resale is to be made, or to which the commodity is to be transported for such resale.

(3) Nothing contained in this Act or in any of the Antitrust Acts shall render unlawful the exercise or the enforcement of any right or right of action created by any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia, which in substance provides that willfully and knowingly advertising, offering for sale, or selling any commodity at less than the price or prices prescribed in such contracts or agreements whether the person so advertising, offering for sale, or selling is or is not a party to such a contract or agreement, is unfair competition and is actionable at the suit of any person damaged thereby.

(4) Neither the making of contracts or agreements as described in paragraph (2) of this subsection, nor the exercise or enforcement of any right or right of action as described in paragraph (3) of this subsection shall constitute an unlawful burden or restraint upon, or interference with, commerce.

(5) Nothing contained in paragraph (2) of this subsection shall make lawful contracts or agreements providing for the establishment or maintenance of minimum or stipulated resale prices on any commodity referred to in paragraph (2) of this subsection, between manufacturers, or between producers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.

(6) The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers subject to the Acts to regulate commerce, air carriers, and foreign air carriers subject to the Civil Aeronautics Act of 1938, and persons, partnerships, or corporations insofar as they are subject to the Packers and Stockyards Act, 1921, as amended, except as provided In section 406 (b) of said Act, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.<sup>7</sup>

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<sup>7</sup> Public No. 542, 82d Cong., ch. 745, 2d sess., H.R. 5767, approved July 14, 1952 (the McGuire Act, 15 U.S.C. 45, 66 Stat. 631), amended sec. 5(a) of this act, by inserting in lieu thereof sec. 5(a) (1) through (6).

Therefore, by subsection (f) of sec. 1107 of the "Civil Aeronautics Act of 1938," approved June 23, 1938, Public No. 706, 75th Cong., ch. 601, 3d sess., S. 3845, 52 Stat. 1028, the language of former sec. 5(a) was amended by inserting immediately following the words "to regulate commerce," the words "air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938," as above set out in sec. 5 (a) (6).

Public No. 85-909, 85th Cong., H.R. 9020, approved Sept. 2, 1958, amended the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 226, 227, and 72 Stat. 1749, 1750) by striking out subsec. (b) of sec. 406 and inserting in lieu thereof the following: "(b) The Federal Trade Commission shall have power and Jurisdiction over any matter Involving meat, meat food products, livestock products in unmanufactured form, or poultry

(b) Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition or unfair or deceptive act or practice in commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be in the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the Commission to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission. If upon such hearing the Commission shall be of the opinion that the method of competition or the act or practice in question is prohibited by this Act, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition or such act or practice. Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the record in the proceeding has been filed in a court of appeals of the United States, as here in after provided, the Commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this

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products, which by this Act is made subject to the power or Jurisdiction of the Secretary, as follows :

"(1) When the Secretary in the exercise of his duties requests of the Commission that it make investigations and reports in any case.

"(2) In any investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission, arising out of acts or transactions involving meat, meat food products, livestock products in unmanufactured form, or poultry products, if the Commission determines that effective exercise of its power or Jurisdiction with respect to retail sales of any such commodities is or will be impaired by the absence of power or jurisdiction over all acts or transactions involving such commodities in such investigation or proceeding. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Commissioner shall notify the Secretary of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with regard to acts or transactions (other than retail sales) involving such commodities if the Secretary within ten days from the date of receipt of the notice notifies the Commission that there is pending in his Department an investigation of, or proceeding for the prevention of, an alleged violation of this Act involving the same subject matter.

"(3) Over all transactions in commerce in margarine or oleomargarine and over retail sales of meat, meat food products, livestock products in unmanufactured form, and poultry products.

"(c) The Federal Trade Commission shall have no power or jurisdiction over any matter which by this Act is made subject to the jurisdiction of the Secretary, except as provided in subsection (b) of this section."

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The same Public Law also amended subsection 6 of sec. 5(a) of the Federal Trade Commission Act (15 U.S.C. 45 (a) (6) and 38 Stat. 719) by substituting "persons, partnerships, or corporations insofar as they are subject to the Packers and Stockyards Act, 1921, as amended, except as provided in sec. 406(b) of said act" for "persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in sec. 406(b) of said act."

section.<sup>8</sup> After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the Commission may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the Commission conditions of fact or of law have so changed as to require such action or if the public interest shall so require: Provided, however, That the said person, partnership, or corporation may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate circuit court of appeals of the United States, in the manner provided in subsection (c) of this section.

(c) Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or act or practice may obtain a review of such order in the circuit court of appeals of the United States, within any circuit where the method of competition or the act or practice in question was used or where such person, partnership, or corporation resides. or carries on business, by filing in the court, within sixty days<sup>9</sup> from the date of the service of such order, a written petition praying that the order of the Commission be set aside. A Copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission, and thereupon the Commission shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United, States Code. Upon such filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein concurrently with the Commission until the filing of the record and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite.<sup>10</sup>The findings of the Commission as to the facts, if supported by evidence, shall be conclusive. To the extent that the order of the Commission is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the Commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or, new findings, which, if supported by evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code

(d) Upon the filing of the record with it the jurisdiction of the court of appeals of the United States to affirm, enforce, modify, or set aside orders of the Commission shall be exclusive.<sup>11</sup>

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<sup>8</sup> This sentence was amended by Public Law 85-791, 85th Cong., H.R. 6788, approved August 28, 1958, 72 Stat. 942.

<sup>9</sup> Section 5(a) of the amending Act of 1938 provides:

"SEC. 5(a) In case of an order by the Federal Trade Commission to cease and desist, served on or before the date of the enactment of this Act, as amended by this Act, shall begin on the date of the enactment of this Act."

<sup>10</sup> The above two sentences were also amended by Public Law 85-791.

<sup>11</sup> The above section was also amended by Public Law 85-791.

(e) Such proceedings In the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in ever way expedited. No order of the Commission or judgment of court to enforce the same shall in anywise relieve or absolve any person, partnership, or corporation from any liability under the Antitrust Acts.

(f) Complaints, orders, and other processes of the Commission under this section may be served by anyone duly authorized by the Commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the residence or the principal office or place of business of such person, partnership or corporation; or (c) by registering and mailing a copy thereof addressed to such person, partnership, or corporation at his or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

(g) An order of the Commission to cease and desist shall become final—

(1) Upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; but the Commission may thereafter modify or set aside its order to the extent provided in the last sentence of subsection (b) : or

(2) Upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed, or the petition for review dismissed by the circuit court of appeals, and no petition for certiorari has been duly filed; or

(3) Upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by the circuit court of appeals; or

(4) Upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, If such Court directs that the order of the Commission be affirmed or the petition for review dismissed.

(h) If the Supreme Court directs that the order of the Commission be modified or set aside, the order of the Commission rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the Commission shall become final when so, corrected.

(i) If the order of the Commission is modified or set aside by the circuit court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered in accordance with the mandate of the circuit court of appeals shall become final on the expiration of thirty days from the time such order of the Commission was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, In which event the order of the Commission shall become final when so corrected.

(j) If the Supreme Court orders a rehearing; or if the case is remanded by the circuit court of appeals to, the Commission for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been

denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered upon such rehearing shall become final in the same manner as though no prior order of the Commission had been rendered.

(k) As used in this section the term "mandate," in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance thereof, means the final mandate.

(1) Any person, partnership, or corporation who violates an order of the Commission to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than \$5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense.<sup>12</sup>

SEC. 6. That the commission shall also have power—<sup>13</sup>

(a) To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks and common carriers subject to the Act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships.

(b) To require, by general or special orders, corporations engaged in commerce, excepting banks, and common carriers subject to the Act to regulate commerce, or any class of them, or any of them, respectively, to file with the commission in such form as the commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by the commission.

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust Acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Attorney General it shall be its duty to make such investigation. It shall transmit to the Attorney General a report embodying its findings and recommendations as a result of any such investigation, and the report shall be made public in the discretion of the commission.

(d) Upon the direction of the President or either House of Congress to investigate and report the facts relating to any alleged violations of the antitrust Acts by any corporation.

(e) Upon the application of the Attorney General to investigate and make recommendations for the readjustment of the business of any corporation alleged

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<sup>12</sup> Foregoing sentence added by subsection (c) of Sec. 4, Public No. 459, 81st Congress. (See footnote 1.)

<sup>13</sup> Public, No. 78, 73d Cong., approved June 16, 1933, making appropriations for the fiscal year ending June 30, 1934, for the "Executive Office and sundry Independent executive bureaus, boards, commissions," etc., made the appropriation for the Commission contingent upon the provision (48 Stat. 291; 15 U.S.C.A., sec. 46a) that "hereafter no new investigations shall be initiated by the Commission as the results of a legislative resolution, except the same be a concurrent resolution of the two Houses of Congress."

to be violating the antitrust Acts in order that the corporation may thereafter maintain its organization, management, and conduct of business in accordance with law.

(f) To make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

(g) From time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this Act.

(h) To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, with such recommendations as it deems advisable.

SEC. 7. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust Acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission, as a master in chancery, to ascertain and report an appropriate form of decree therein. The commission shall proceed upon such notice to the parties and under such rules of procedure as the court may prescribe, and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

SEC. 8. That the several departments and bureaus of the Government when directed by the President shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this Act, and shall detail from time to time such officials and employees to the commission as he may direct.

SEC. 9. That for the purposes of this Act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have

jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made in pursuance thereof.

The Commission may order testimony to be taken by deposition in any proceeding or investigation pending under this Act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as herein before provided.

Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken, and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it: Provided, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for not more than one year, or by both, such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or, statement of fact in any report required to be made under this Act, or who shall, willfully make, or cause to be made, any false entry in any account, record, or, memorandum kept by any corporation subject to this Act, or who shall willfully neglect or fail to make, or cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for, the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than, \$1,000 nor more than \$5,000 or to imprisonment for a term of not more than. three years, or to both such fine and imprisonment.

If any corporation required by this Act to file any annual or special report shall fail so to do within the time fixed by the commission for filing the same and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of \$100 for each.

and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Any officer or employee of the commission who shall make public any information obtained by the commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 11. Nothing contained in this Act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust Acts or the Acts to regulate commerce, nor shall anything contained in the Act be construed to alter, modify, or repeal the said antitrust Acts or the Acts to regulate commerce or any part or parts thereof.

SEC. 12. (a) It shall be unlawful for any person, partnership, or corporation to disseminate, or cause to be disseminated, any false advertisement—

(1) By United States mails, or in commerce by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly the purchase of food, drugs, devices, or cosmetics; or

(2) By any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce of food, drugs, devices, or cosmetics.

(b) The dissemination or the causing to be disseminated of any false advertisement within the provisions of subsection (a) of this section shall be an unfair or deceptive act or practice in commerce within the meaning of section 5.

SEC. 13. (a) Whenever the Commission has reason to believe—

(1) that any person, partnership, or corporation is engaged in, or is about to engage in, the dissemination or the causing of the dissemination of any advertisement in violation of section 12, and

(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission to cease and desist made thereon has become final within the meaning of section 5, would be to the interest of the public.

the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States or in the United States court of any Territory, to enjoin the dissemination or the causing of the dissemination of such advertisement. Upon proper showing a temporary injunction or restraining order shall be granted without bond. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business.

(b) Whenever it appears to the satisfaction of the court in the case of a newspaper, magazine, periodical, or other publication, published at regular intervals—

(1) that restraining the dissemination of a false advertisement in any particular issue of such publication would delay the delivery of such issue after the regular time therefor, and

(2) that such delay would be due to the method by which the manufacture and distribution of such publication is customarily conducted by the publisher in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such false advertisement or any other advertisement, the court shall exclude such issue from the operation of the restraining order or injunction.

SEC. 14.<sup>14</sup> (a) Any person, partnership, or corporation who violates any provision of section 12(a) shall, if the use of the commodity advertised may be injurious to health because of results from such use under the conditions prescribed in the advertisement thereof, or under such conditions as are customary or usual, or if such violation is with intent to defraud or mislead, be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than six months, or by both such fine or imprisonment; except that if the conviction is for a violation committed after a first conviction of such person, partnership, or corporation, for any violation of such section, punishment shall be by a fine of not more than \$10,000 or by imprisonment for not more than one year, or by both such fine and imprisonment: Provided, That for the purposes of this section meats and meat food products duly inspected, marked, and labeled in accordance with rules and regulations issued under the Meat Inspection Act approved March 4, 1907, as amended, shall be conclusively presumed not injurious to health at the time the same leave official "establishments."

(b) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of advertising, except the manufacturer, packer, distributor, or seller of the commodity to which the false advertisement relates, shall be liable under this section by reason of the dissemination by him of false advertisement, unless he has refused, on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, or advertising agency, residing in the United States, who caused him to disseminate such advertisement. No advertising agency shall be liable under this section by reason of the causing by it of the dissemination of any false advertisement, unless it has refused, on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, or seller, residing in the United States, who caused It to cause the dissemination of such advertisement.

SEC. 15. For the purposes of sections 12,13, and 14—

(a) (1) The term "false advertisement" means an advertisement, other than labeling, which is misleading in a material respect; and in determining whether any advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representation or material with respect to consequences which may result from the use of the commodity to which the advertisement relates under the conditions prescribed in said advertisement, or under such conditions as are customary or usual. No advertisement of a drug shall be deemed to be false if it is disseminated only to members of the medical profession, contains no false representation of material fact, and includes, or is accompanied in each instance by truthful disclosure of, the formula showing quantitatively each ingredient of such drug.

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<sup>14</sup> Section 5(b) of the amending Act of 1938 provides:

"SEC. 5. (b) Section 14 of the Federal Trade Commission Act, added to such Act by section 4 of this Act, shall take effect on the expiration of sixty days after the date of the enactment of this Act."

(2) In the case of oleomargarine or margarine an advertisement shall be deemed misleading in a material respect if in such advertisement representations are made or suggested by statement, word, grade designation, design, device, symbol, sound, or any combination thereof, that such oleomargarine or margarine is a dairy product, except that nothing contained herein shall prevent a truthful, accurate, and full statement in any such advertisement of all the ingredients contained in such oleomargarine or margarine.<sup>15</sup>

(b) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(c) The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

(d) The term "device" (except when used in subsection (a) of this section) means instruments, apparatus, and contrivances, including their parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

(e) The term "cosmetic" means (1) articles to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof intended for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such article; except that such term shall not include soap.

(f) For the purposes of this section and section 407 of the Federal Food Drug, and Cosmetic Act, as amended, the term "oleomargarine" or "margarine," includes—

(1) all substances, mixtures, and compounds known as oleomargarine or margarine;

(2) all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter.<sup>16</sup>

SEC. 16. Whenever the Federal Trade Commission has reason to believe that any person, partnership, or corporation is liable to a penalty under section 14 or under subsection (1) of section 5, it shall certify the facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of such section or subsection.

SEC. 17. If any provision of this Act, or the application thereof to any person, partnership, corporation, or circumstance, is held invalid, the remainder of the Act and the application of such provision to any other person, partnership, corporation, or circumstance, shall not be affected thereby.

SEC. 18. This Act may be cited as the "Federal Trade Commission Act."

Original approved September 26, 1914.

Amended and approved March 21, 1938.<sup>17</sup>

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<sup>15</sup> Subsection (a) of sec. 4 of Public No. 459, 81st Congress (see footnote 1), amended sec. 15 of this Act by inserting "(1)" after the letter "(a)" in subsection (a) above, and by adding at the end of such subsection new paragraph (2), above set out.

<sup>16</sup> Subsection (b) of sec. 4 of Public No. 459, 81st Congress (see footnote 1) further amended sec. 15 of this Act, by adding at the end thereof the new subsection (f) as above set out.

<sup>17</sup> See footnote. 1

# Packers and Stockyards Act

[Public Law 85-909, 85th Congress, H.R. 9020, September 2, 1958]

AN ACT To amend the Packers and Stockyards Act, 1921, as amended, and for other purposes

Be, it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Packers and Stockyards Act, 1921, as amended (42 Stat. 159, as amended; 7 U.S.C. 181 and the following), is amended as follows:

(1) By amending section 202 by inserting after the word "unlawful" the words "with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry, or poultry products".

(2) By amending section 406 by striking out subsection (b) and inserting in lieu thereof the following:

“(b) The Federal Trade Commission shall have power and jurisdiction over any matter involving meat, meat food products, livestock products in unmanufactured form, or poultry products, which by this Act is made subject to the power or jurisdiction of the Secretary, as follows:

"(1) When the Secretary in the exercise of his duties requests of the Commission that it make investigations and reports in any case.

"(2) In any investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission, arising out of acts or transactions involving meat, meat food products, livestock products in unmanufactured form, or poultry products, if the Commission determines that effective exercise of its power or jurisdiction with respect to retail sales of any such commodities is or will be impaired by the absence of power or jurisdiction over all acts or transactions involving such commodities in such investigation or proceeding. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Commissioner shall notify the Secretary of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with regard to acts or transactions (other than retail sales) involving such commodities, if the Secretary within ten days from the date of receipt of the notice notifies the Commission that there is pending in his Department an investigation of, or proceeding for the prevention of, an alleged violation of this Act involving the same subject matter.

“(3) Over all transactions in commerce in margarine or oleomargarine and over retail sales of meat, meat food products, livestock products in unmanufactured form, and poultry products.

“(c) The Federal Trade Commission shall have no power or jurisdiction over any matter which by this Act is made subject to the jurisdiction of the Secretary, except as provided in subsection (b) of this section.

"(d) The Secretary of Agriculture shall exercise power or jurisdiction over oleomargarine or retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products only when he determines, in any investigation of, or any proceeding for the prevention of, an alleged violation of this Act, that such action is necessary to avoid impairment of his power or jurisdiction over acts or transactions involving livestock, meat, meat food products, livestock products in unmanufactured form, poultry or poultry products, other than retail sales thereof. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Secretary shall notify the Federal

Trade Commission of such determination, the reasons therefor, and the acts: or transactions involved, and shall not exercise power or jurisdiction with respect to acts or transactions involving oleomargarine or retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products if the Commission within ten days from the date of receipt of such notice notifies the Secretary that there is pending in the Commission an investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission involving the same subject matter.

"(e) The Secretary of Agriculture and the Federal Trade Commission shall include in their respective annual reports information with respect to the administration of subsections (b) and (d) of this section."

SEC. 2. Said Act is further amended—

(1) by striking out the words "at a stockyard" from sections 301 (c) and 301 (d) ;

(2) by striking out the last sentence of section 302 (a) : Provided, however, That nothing herein shall be deemed a definition of the term "public stockyards" as used in section 15(5) of the Interstate Commerce Act;

(3) by Inserting after the first sentence in section 303 the following sentence : "Every other person operating as a market agency or dealer as defined in section 301 of the Act may be required to register in such manner as the Secretary may prescribe.";

(4) by amending section 311 by striking out the words "stockyard owner or market agency" wherever they occur and inserting "stockyard owner, market agency, or dealer" and by striking out "stockyard owners or market agencies" and inserting "stockyard owners, market agencies, or dealers";

(5) by striking out the words "at a stockyard" from section 312 (a).

SEC. 3. Subsection 6 of section 5 (a) of the Federal Trade Commission Act (15 U.S.C. 45 (a) (6)) is amended by striking out "persons, partnerships or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) of said Act", and substituting therefor the following: "persons, partnerships, or corporations insofar as they are subject to the Packers and Stockyards Act, 1921, as amended, except as provided in section 406 (b) of said Act".

SEC. 4. Section 407 of the Packers and Stockyards Act, 1921, as amended, is amended (1) by inserting "(a) " immediately after "Sec. 407." and (2) by adding at the end thereof the following new subsection:

“(b) The Secretary shall maintain within the Department of Agriculture a separate enforcement unit to administer and enforce title II of this Act.”

Approved September 2, 1958.

## Clayton Act

[Public—No. 212—63d Congress, As Amended by Public—No. 692—74th Congress,<sup>1</sup> and Public-No. 899-81st Congress and Public Law 86-107, 86th Congress]

[H.R. 15657]

An Act To supplement existing laws against unlawful restraints and monopolies, and for other purposes

SEC. 1. Definitions. (38 Stat. 730; 15 U.S.C.A., sec. 12.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That "antitrust laws," as used herein, in-

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<sup>1</sup> The Robinson-Patman Act (see footnote 2). See also footnotes 5 and 13 with respect to the repeal of Section 9, Section 17 in part, Sections 18 and 19, and Sections 21-25, inclusive, by two acts of June 25, 1948, namely, C. 645 (62 Stat. 683) and C. 646 (62 Stat. 896) ; and footnotes concerning the amendment of Sections 7 and 11 by act of Dec. 29, 1950, C. 1184 (64 Stat. 1125).

cludes the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety; sections seventy-three to seventy-seven, inclusive of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," of August twenty-seventh, eighteen hundred and ninety-four; an Act entitled "An Act to amend section seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February twelfth, nineteen hundred and thirteen; and also this Act.

"Commerce," as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: Provided, That nothing in this Act contained shall apply to the Philippine Islands.

The word "person" or "persons" wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

SEC. 2. DISCRIMINATING IN PRICE, SERVICE, OR FACILITIES.<sup>2</sup> (49 Stat. 1526; 15 U.S.C.A., sec. 13, as amended.)

SEC. 2. (a) That It shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: Provided, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered: Provided, however, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and

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<sup>2</sup> This section of the Clayton Act contains the provisions of the Robinson-Patman AntiDiscrimination Act, approved June 19, 1936, amending Section 2 of the original Clayton Act approved Oct. 15, 1914.

Section 4 of said Act provides that nothing therein "shall prevent a cooperative association from returning to its members, producers, or consumers the whole, or any part of, the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association."

Public No. 550, 75th Congress, approved May 26, 1938, to amend the said Robinson-Patman Act, further provides that nothing therein "shall apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable Institutions not operated for profit."

revise the same as it finds necessary, is to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the foregoing shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: And provided further, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade: And, provided further, That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: Provided, however, That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

(c) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary there in where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(d) That it shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(e) That it shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(f) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this section.

SEC. 3. TYING OR EXCLUSIVE LEASES, SALES, OR CONTRACTS. (38 Stat.731;15 U.S.C.A., sec. 14.)

SEC. 3. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies or other commodities, whether patented or unpatented, for use, consumption or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from or rebate upon, such price, on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities, of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

SEC. 4. VIOLATION OF ANTITRUST LAWS–DAMAGES. (38 Stat. 731; U.S.C.A., sec. 15.)

SEC. 4. That any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides, or is found, or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

SEC. 4A.<sup>3</sup> Whenever the United States is hereafter injured in its business or property by reason of anything forbidden in the antitrust laws it may sue therefor in the United States district court for the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover actual damages by it sustained and cost of suit.

SEC.4B. Any action to enforce any cause of action under sections 4 or 4A shall be forever barred unless commenced within four years after the cause of action accrued. No cause of action barred under existing law on the effective date of this Act shall be revived by this Act.

SEC. 5. PROCEEDINGS BY OR IN BEHALF OF UNITED STATES UNDER ANTITRUST LAWS. FINAL JUDGMENTS OR DECREES THEREIN AS EVIDENCE IN PRIVATE LITIGATION. INSTITUTION THEREOF AS SUSPENDING STATUTE OF LIMITATIONS. (38 Stat. 731; 15 U.S.C.A., sec. 16.)

SEC. 5. (a) A final judgment or decree heretofore or hereafter rendered in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any action or proceeding brought by any other party against such defendant under said laws or by the United States under section 4A, as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: Provided, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken or to judgments or decrees entered in actions under Section 4A.

(b) Whenever any civil or criminal proceeding is instituted by the United States to prevent, restrain, or punish violations of any of the antitrust laws, but not including an action under section 4A, the running of the statute of limitations in respect of every section 4A, the running of the statute of limitations in respect

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<sup>3</sup> Sec. 4A, 4B, 5 (a) and 5 (b) were added by Pub. Law 137, approved July 7, 1955, 69 Stat. 282, 283.

of every private right of action arising under said laws and based in whole or in part on any matter complained of in said proceeding shall be suspended during the pendency thereof and for one year thereafter: Provided, however, That whenever the running of the statute of limitations in respect of a cause of action arising under section 4 is suspended hereunder, any action to enforce such cause of action shall be forever barred unless commenced either within the period of suspension or within four years after the cause of action accrued.

**SEC. 6. LABOR OF HUMAN BEINGS NOT A COMMODITY OR ARTICLE OF COMMERCE. (38 Stat. 731; 15 U.S.C.A., sec. 17.)**

SEC. 6. That the labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.

**SEC. 7. ACQUISITION BY CORPORATION OF STOCK OR OTHER SHARE CAPITAL OF OTHER CORPORATION OR CORPORATIONS. (38 Stat. 731; 15 U.S.C.A., sec. 18.)**

SEC. 7. <sup>4</sup>That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of another corporation engaged also in commerce, where in any line of commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of one or more corporations engaged in commerce, where in any line of commerce in any section of the country, the effect of such acquisition, of such stocks or assets, or of the use of such stock by the voting or granting of proxies or otherwise, may be substantially to lessen competition, or to tend to create a monopoly.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything here in contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line

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<sup>4</sup> This section, and also section 11, which amend the respective sections of the Clayton Act, were enacted by Act of Dec. 29, 1950 (P.L. 899; 64 Stat. 1125; 15 U.S.C. 18).

constructed by an independent company here there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: Provided, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

Nothing contained in this section shall apply to transactions duly consummated pursuant to authority given by the Civil Aeronautics Board, Federal Communications Commission, Federal Power Commission, Interstate Commerce Commission, the Securities and Exchange Commission in the exercise of its jurisdiction under section 10 of the Public Utility Holding Company Act of 1935, the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in such Commission, Secretary, or Board.

**SEC. 8. INTERLOCKING DIRECTORS, OFFICERS, OR EMPLOYEES OF BANKS AND DIRECTORS OF OTHER CORPORATIONS. (38 Stat. 732 (as amended by 48 Stat. 718) ; 15 U.S.C.A., sec. 19.)**

SEC. 8. No private banker or director, officer, or employe of any member bank of the Federal Reserve System or any branch thereof shall be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized under the National Bank Act or organized under the laws of any State or of the District of Columbia, or any branch thereof, except that the Board of Governors of the Federal Reserve System may by regulation permit such service as a director, officer, or employee of not more than one other such institution or branch thereof; but the foregoing prohibition shall not apply in the case of any one or more of the following or any branch thereof :

(1) A bank, banking association, savings bank, or trust company, more than 90 per centum of the stock of which is owned directly or indirectly by the United States or by any corporation of which the United States directly or indirectly owns more than 90 per centum of the stock.

(2) A bank, banking association, savings bank, or trust company which has been placed formally in liquidation or which is in the hands of a receiver, conservator, or other official exercising similar functions.

(3) A corporation, principally engaged in international or foreign banking or banking in a dependency or insular possession of the United States which has entered into an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 of the Federal Reserve Act.

(4) A bank, banking association, savings bank, or trust company, more than 50 per centum of the common stock of which is owned directly or indirectly by persons who own directly or indirectly more than 50 per centum of the common stock of such member bank.

(5) A bank, banking association, savings bank, or trust company not located and having no branch in the same city, town, or village as that in, which such member bank or any branch thereof is located, or in any city, town, or village contiguous or adjacent thereto.

(6) A bank banking association, savings bank, or trust company not engaged in a class or classes of business which such member bank is engaged.

(7) A mutual savings bank having no capital stock.

Until February 1, 1939, nothing in this section shall prohibit any director, officer, or, employee of any member bank of the Federal Reserve System, or any branch there, who is lawfully serving at the same time as a private banker or as a director, officer, or employee of any other bank, banking association, savings bank, or trust company, or any branch thereof, on the date of enactment of the Banking Act of 1935, from continuing such service.

The Board of Governors of the Federal Reserve System is authorized and directed to enforce compliance with this section, and to prescribe such rules and regulations as it deems necessary for that purpose.

That from and after two years from the date of the approval of this Act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than \$1,000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies, and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination, of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

When any person elected or chosen as a director or officer or selected as an employee of any bank or other corporation subject to the provisions of this Act is eligible at the time of his election or selection to act for such bank or other corporation in such capacity his eligibility to act in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

#### SEC. 9. WILLFUL MISAPPLICATION, EMBEZZLEMENT, ETC., OF MONEYS, FUNDS, ETC., OF COMMON CARRIER A FELONY. (38 Stat. 733; 18 U.S.C.A., sec. 412.)

SEC. 9.<sup>5</sup> Every president, director, officer or manager of any firm, association or corporation engaged in commerce as a common carrier, who embezzles, steals, abstracts, or willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation, arising or accruing from, or used in, such commerce, in whole or in part, or willfully and knowingly converts the same to his own use or to the use of another, shall be deemed guilty of a felony and upon conviction shall be fined not less than \$500 or confined in the penitentiary not less than one year nor more than ten years, or both, in the discretion of the court.

Prosecutions hereunder may be In the district court of the United States for the district wherein the offense may have been committed.

That nothing in this section shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof; and a judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

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<sup>5</sup> Repealed by Act of June 25, 1948, c. 645 (62 Stat. 683), which revised, codified, and enacted into "positive law" Title 18 of the Code (Crimes and Criminal Procedure). Said act reenacted said matter as to substance, as 18 U.S.C., Sec. 660 (62 Stat. 780).

SEC. 10. LIMITATIONS UPON DEALINGS AND CONTRACTS OF COMMON CARRIERS, WHOSE INTERLOCKING DIRECTORS, ETC. (38 Stat. 734; 15 U.S.C.A., sec. 20.)

SEC. 10. That after two years from the approval of this Act no common carrier engaged in commerce shall have any dealings in securities, supplies or other articles of commerce, or shall make or have any contracts for construction or maintenance of any kind, to the amount of more than \$50,000, in the aggregate, in any one year, with another corporation, firm, partnership, or association when the said common carrier shall have upon its board of directors or as its president, manager, or as its purchasing or selling officer, or agent in the particular transaction, any person who is at the same time a director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, partnership, or association, unless and except such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the name and address of the bidder or the names and addresses of the officers, directors, and general managers thereof, if the bidder be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding or shall do any act to prevent free and fair competition among the bidders or those desiring to bid shall be punished as prescribed in this section in the case of an officer or director.

Every such common carrier having any such transactions or making any such purchases shall within thirty days after making the same file with the Interstate Commerce Commission a full and detailed statement of the transaction showing the manner of the competitive bidding, who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the said commission shall, after investigation or hearing, have reason to believe that the law has been violated in and about the said purchases or transactions it shall transmit all papers and documents and its own views or findings regarding the transaction to the Attorney General.

If any common carrier shall violate this section it shall be fined not exceeding \$25,000; and every such director, agent, manager or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding \$5,000, or confined in jail not exceeding one year, or both, in, the discretion of the court.

SEC. 11. JURISDICTION TO ENFORCE COMPLIANCE, COMPLAINTS, FINDINGS, AND ORDERS. APPEALS, SERVICE. (38 Stat. 734; 15 U.S.C.A., sec. 21.)

Sec. 11(a)<sup>6</sup> That authority to enforce compliance with sections 2, 3, 7, and 8 of this Act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as, amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Civil Aeronautics Board where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938; in the Federal Reserve Board where applicable to

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<sup>6</sup> This section, and also section 7, which amend the respective sections of the Clayton Act, were enacted by Act of Dec. 29, 1950. (P.L. 899; 64 Stat 1125; 15 U.S.C. 21.)

banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce to be exercised as follows:

(b) Whenever the Commission or Board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections 2, 3, 7, and 8 of this Act, it shall issue and serve upon such person and the Attorney General a complaint stating its charges in that respect, and containing a notice of hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission or Board requiring such person to cease and desist from the violation of the law so charged in said complaint. The Attorney General shall have the right to intervene and appear in said proceeding and any person may make application, and upon good cause shown may be allowed by the Commission or Board, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission or Board. If upon such hearing the Commission or Board, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing, in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock, or other share capital, or assets, held or rid itself of the directors chosen contrary to the provisions of sections 7 and 8 of this Act, if any there be, in the manner and within the time fixed by said order. Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the record in the proceeding has been filed in a court of appeals of the United States, as hereinafter provided, the Commission or Board may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section. After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the Commission or Board may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the Commission or Board conditions of fact or of law have so changed as to require such action or if the public interest shall so require: Provided, however, That the said person may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate court of appeals of the United States, in the manner provided in subsection (e) of this section.'

(c) Any person required by such order of the commission or board to cease and desist from any such violation may obtain a review of such order in the court of appeals of the United States for any circuit within which such violation

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<sup>7</sup> Parts of paragraphs two, three, four and five of this section were amended by Public Law 85—791, 85th Cong., H.R. 6788, approved August 28, 1958, 72 Stat. 943.

The first and second paragraphs of this section were redesignated as subsections (a) and (b), the last sentence of subsection (b) was amended, and the third, fourth, fifth, sixth and seventh paragraphs were amended by Public Law 86—107, 86th Cong., S. 726, approved July 23, 1959, 78 Stat. 243-246.

The amendments so made do not apply to any proceeding initiated before the date of enactment of that Act under the third or fourth paragraph of section II. Each such proceeding continues to be governed by the provisions of such section as they existed on the day preceding the date of enactment of Public Law 86—107.

occured or within which such person resides or carries on business, by filing in the court, within sixty days after the date of the service of such order, a written petition praying that the order of the commission or board be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the commission or board, and thereupon the commission or board shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon such filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein concurrently with the commission or board until the filing of the record, and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the commission or board, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite. The findings of the commission or board as to the facts, if supported by substantial evidence, shall be conclusive. To the extent that the order of the commission or board is affirmed, the court shall issue its own order commanding obedience to the terms of such order of the commission or board. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission or board, the court may order such additional evidence to be taken before the commission or board, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission or board may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and shall file such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28 of the United States Code.

(d) Upon the filing of the record with it the jurisdiction of the court of appeals to affirm, enforce, modify, or set aside orders of the commission or board shall be exclusive.

(e) Such proceedings in the court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the commission or board or judgement of the court to enforce the same shall in anywise relieve or absolve any person from any liability under the antitrust laws.

(f) Complaints, orders, and other processes of the commission or board under this section may be served by anyone duly authorized by the commission or board, either (1) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2) by leaving a copy thereof at the residence or the principal office or place of business of such person; or (3) by mailing by registered or certified mail a copy thereof addressed to such person at his or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process mailed by registered or certified mail as aforesaid shall be proof of the service of the same.

(g) Any order issued under subsection (b) shall become final—

(1) upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; but the commission or

board may thereafter modify or set aside its order to the extent provided in the, last sentence of subsection (b) ; or

(2) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the commission or board has been affirmed, or the petition for review has been dismissed by the court of appeals, and no petition for certiorari has been duly filed; or

(3) upon the denial of a petition for certiorari, if the order of the commission or board has been affirmed or the petition for review has been dismissed by the court of appeals; or

(4) upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the commission or board be affirmed or the petition for review be dismissed.

(h) If the Supreme Court directs that the order of the commission or board be modified or set aside, the order of the commission or board rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the commission or board shall become final when so corrected.

(i) If the order of the commission or board is modified or set aside by the court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the commission or board rendered in accordance with the mandate of the court of appeals shall become final on the expiration of thirty days from the time such order of the commission or board was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the commission or board shall become final when so corrected.

(j) If the Supreme Court orders a rehearing, or if the case is remanded by the court of appeals to the commission or board for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the Order of the commission or board rendered upon such rehearing shall become final in the same manner as though no prior order of the commission or board had been rendered.

(k) As used in this section the term "mandate," in case a mandate has been recalled prior to the expiration of thirty days from the the date of issuance thereof, means the final mandate.

(l) Any person who violates any order issued by the commission or board under subsection (b) after such order has become final, and while such order is in effect, shall forfeit and pay the United States a civil penalty of not more than \$5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States. Each separate violation of any such order shall be a separate offense, except that in the case, of a violation through continuing failure or neglect to obey a final order of the commission or board each day of continuance of such failure or neglect shall be deemed a separate offense.

SEC. 12. PLACE OF PROCEEDING UNDER ANTITRUST LAWS. SERVICE OF PROCESS. (38 Stat. 736; 15 U.S.C.A., sec. 22.)

SEC. 12. That any suit, action, or proceeding under the antitrust laws against a corporation may be brought not only in the judicial district whereof it is

an inhabitant, but also in any district wherein it may be found or transacts business; and all process in such cases may be served in the district of which it is an inhabitant, or wherever it may be found.

**SEC. 13. SUBPOENAS FOR WITNESSES IN PROCEEDINGS BY OR ON BEHALF OF THE UNITED STATES UNDER ANTITRUST LAWS. (38 Stat. 736; 15 U.S.C.A., see. 23.)**

SEC. 13. That in any suit, action, or proceeding brought by or on behalf of the United States subpoenas for witnesses who are required to attend a court of the United States in any judicial district in any case, civil or criminal, arising under the antitrust laws may run into any other district: Provided, That in civil cases no writ of subpoena shall issue for witnesses living out of the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the permission of the trial court being first had upon proper application and cause shown.

**SEC. 14. VIOLATION BY CORPORATION OF PENAL PROVISIONS OF ANTITRUST LAWS. (38 Stat. 736; 15 U.S.C.A., sec. 24.)**

SEC. 14. That whenever a corporation shall violate any of the penal provisions of the antitrust laws, such violation shall be deemed to be also that of the individual directors, officers, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting in whole or in part such violation, and such violation shall be deemed a misdemeanor, and upon conviction thereof of any such director, officer, or agent he shall be punished by a fine of not exceeding \$5,000 or by imprisonment for not exceeding one year, or by both, In the discretion of the court.

**SEC. 15. JURISDICTION OF UNITED STATES DISTRICT COURTS TO PREVENT AND RESTRAIN VIOLATIONS OF THIS ACT. (38 Stat. 736; 15 U.S.C.A., see. 25.)**

SEC. 15. That the several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this Act, and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition, and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises. Whenever it shall appear to the court before which any such proceeding may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned whether they reside in the district in which the court is held or not, and subpoenas to that end may be served in any district by the marshal thereof.

**SEC. 16. INJUNCTIVE RELIEF AGAINST THREATENED LOSS BY VIOLATION OF ANTITRUST LAWS. (38 Stat. 737; 15 U.S.C.A., sec. 26.)**

SEC. 16. That any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, as against threatened loss or damage by a violation of the antitrust laws, including sections two, three, seven, and eight of this Act,

when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue: Provided, That nothing herein contained shall be construed to entitle any person, firm, corporation, or association, except the United States, to bring suit in equity for injunctive relief against any common carrier subject to the provisions of the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, in respect of any matter subject to the regulation, supervision, or other jurisdiction of the Interstate Commerce Commission.

SEC. 17. PRELIMINARY INJUNCTIONS, TEMPORARY RESTRAINING ORDERS. (38 Stat. 737; first two paragraphs are 28 U.S.C.A., sec. 381.)

SEC. 17.<sup>8</sup> That no preliminary injunction shall be issued without notice to the opposite party.

No temporary restraining order shall be granted without notice to the opposite party unless it shall clearly appear from specific facts shown by affidavit or by the verified bill that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. Every such temporary restraining order shall be endorsed with the date and hour of issuance, shall be forthwith filed in the clerk's office and entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed ten days, as the court or judge may fix, unless within the time so fixed the order is extended for a like period for good cause shown, and the reasons for such extensions shall be entered of record. In case a temporary restraining order shall be granted without notice in the contingency specified, the matter of the issuance of a preliminary injunction shall be set down for a hearing at the earliest possible time and shall take precedence of all matters except older matters of the same character; and when the same comes up for hearing the party obtaining the temporary restraining order shall proceed with the application for a preliminary injunction, and if he does not do so the court shall dissolve the temporary restraining order. Upon two days' notice to the party obtaining such temporary restraining order the opposite party may appear and move the dissolution or modification of the order, and in that event the court or Judge shall proceed to hear and determine the motion as expeditiously as the ends of justice may require.

Section two hundred and sixty-three of an Act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven, is hereby repealed.

Nothing in this section contained shall be deemed to alter, repeal, or amend section two hundred and sixty-six of an Act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven.

SEC. 18. NO RESTRAINING ORDER OR INTERLOCUTORY ORDER OF INJUNCTION WITHOUT GIVING SECURITY. (38 Stat. 738; 28 U.S.C.A., sec. 382.)

SEC. 18.<sup>9</sup> That, except as otherwise provided in section 16 of this Act, no restraining order or interlocutory order of injunction shall issue, except upon the giving of security by the applicant in such sum as the court or judge may

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<sup>8</sup> See second paragraph of footnote 13.

<sup>9</sup> See second paragraph of footnote 13.

deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

SEC. 19. ORDERS OF INJUNCTION OR RESTRAINING ORDERS—REQUIREMENTS. (38 Stat. 738; 28 U.S.C.A., sec. 383.)

SEC. 19.<sup>10</sup> That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained, and shall be binding only upon the parties to, the suit, their officers, agents, servants, employees and attorneys, or those in active concert or participating with them, and who shall, by personal service or otherwise, have received actual notice of the same.

SEC. 20. RESTRAINING ORDERS OR INJUNCTIONS BETWEEN AN EMPLOYER AND EMPLOYEES, EMPLOYERS AND EMPLOYEES, ETC., INVOLVING OR GROWING OUT OF TERMS OR CONDITIONS OF EMPLOYMENT. (38 Stat. 738; 29 U.S.C.A., sec. 52.)

SEC. 20. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at any place where any such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information, or from peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do; or from paying or giving to, or withholding from, any persons engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto; nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States.

SEC. 21. DISOBEDIENCE OF ANY LAWFUL WRIT, PROCESS, ETC., OF ANY UNITED STATES DISTRICT COURT, OR ANY DISTRICT OF COLUMBIA COURT. (38 Stat. 738; 28 U.S.C.A., sec. 386.)

SEC. 21.<sup>11</sup> That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia by doing any act or thing therein, or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States, or under the laws of any State in which the act was committed, shall be proceeded against for his said contempt hereinafter provided.

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<sup>10</sup> Ibid.

<sup>11</sup> See footnote 13.

SEC. 22. RULE TO SHOW CAUSE OR ARREST. TRIAL. PENALTIES. (38 Stat. 738; 28 U.S.C.A., see. 387.)

SEC. 22.<sup>12</sup> That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer or lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged, with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: Provided, however, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable ball for his attendance at the trial and his submission to the final judgment of the court. Where the accused is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

In all cases within the purview of this Act such trial may be by the court, or upon demand of the accused, by a jury; in which latter event the court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon trial for misdemeanor; and such trial shall conform, as near as may be, to the practice in criminal cases prosecuted by indictment or upon information.

If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment, either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of \$1,000, nor shall such imprisonment exceed the term of six months: Provided, That in any case the court or a judge thereof may, for good cause shown, by affidavit or proof taken in open court or before such judge and filed with the papers in the case, dispense with the rule to show cause, and may issue an attachment for the arrest of the person charged with contempt; in which event such person, when arrested, shall be brought before such court or a judge thereof without unnecessary delay and shall be admitted to bail in a reasonable penalty for his appearance to answer to the charge or for trial for the contempt; and thereafter the proceedings shall be the same as provided herein in case the rule had issued in the first instance.

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<sup>12</sup> Ibid.

SEC. 23. EVIDENCE, APPEALS. (38 Stat. 739; 28 U.S.C.A., sec. 388.)

SEC. 23.<sup>13</sup> That the evidence taken upon the trial of any persons so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error, execution of judgment shall be stayed, and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court, or by any justice or any judge of any district court of the United States or any court of the District of Columbia.

SEC. 24. CASES OF CONTEMPT NOT SPECIFICALLY EMBRACED IN SECTION 21 NOT AFFECTED  
(38 Stat. 739; 28 U.S.C.A., sec. 389.)

SEC. 24.<sup>14</sup> That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all the other cases of contempt not specifically embraced within section twenty-one of this Act, may be punished in conformity to the usages at law and in equity now prevailing.

SEC. 25. PROCEEDINGS FOR CONTEMPT LIMITATIONS. (38 Stat. 740; 28 U.S.C.A., sec. 390.)

SEC. 25.<sup>15</sup> That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of ; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this Act.

SEC. 26. INVALIDING OF ANY CLAUSE, SENTENCE, ETC., NOT TO IMPAIR REMAINDER OF  
ACT. (38 stat. 740; 15 U.S.C.A., sec. 27.)

SEC. 26. If any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Approved, October 15, 1914\*

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<sup>13</sup> Sections 21 to 25, Inclusive, were repealed by Act of June 25, 1948, c. 645 (62 Stat. 683), which revised, codified and enacted into "positive law," Title 18 of the Code (Crimes and Criminal Procedure). Said act reenacted said matter, excluding Section 23, as to substance, as 18 U.S.C., Section 402 (as amended by Public Law 72, May 21, 1949, 81st Congress), 18 U.S.C., Section 3285 and 18 U.S.C., Section 3691. Section 23 was omitted as no longer required in view of the civil and criminal rules promulgated by the Supreme Court.

The Act of June 25, 1948, c. 646 (62 Stat. 896), which revised, codified and enacted into law, Title 28 of the Code (Judicial Code and Judiciary), repealed the first, second, and fourth paragraphs of Section 17, and repealed Sections 18 and 19, in view of Rule 65, Federal Rules of Civil Procedure, which covers the substance of the matter involved.

<sup>14</sup> See footnote 13.

<sup>15</sup> See footnote 18.

\* Original act.

# Flammable Fabrics Act

(Approved June 30,1953; 67 Stat. 111; 15 U. S. C. Sec. 1191)

[PUBLIC—No. 88-83D CONGRESS, CH. 164—1ST SESS.]

[H.R. 5069]

AN ACT To prohibit the Introduction or movement in Interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by Individuals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

## SHORT TITLE

SECTION 1. This Act may be cited as the "Flammable Fabrics Act."

## DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(c) The term "Territory" includes the insular possessions of the United States and also any Territory of the United States.

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: Provided, however, That such hats do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals: Provided further, That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: And provided further, That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term "fabric" means any material (other than fiber, filament, or yarn) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

(f) The term "interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term "Commission" means the Federal Trade Commission.

(h) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, as amended.

## PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(e) The manufacture for sale, the sale, or the offering for sale, of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

#### STANDARD OF FLAMMABILITY

SEC. 4. (a) Any fabric or article of wearing apparel shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if such fabric or any uncovered or exposed part of such article of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the Commercial Standard promulgated by the Secretary of Commerce effective January 30, 1953, and Identified as "FLAMMABILITY of Clothing Textiles, Commercial Standard 191-53," or exhibits a rate of burning in excess of that specified in paragraph 3.11 of the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53." For the purposes of this Act, such Commercial Standard 191-53 shall apply with respect to the hats, gloves, and foot wear covered by section 2 (d) of this Act, notwithstanding any exception contained in such Commercial Standard with respect to hats, gloves, and footwear.

(b) If at any time the Secretary of Commerce finds that the Commercial Standards referred to in subsection (a) of this section are inadequate for the protection of the public interest, he shall submit to the Congress a report setting forth his findings together with such proposals for legislation as he deems appropriate.

(c) Notwithstanding the provisions of paragraph 3.1 Commercial Standard 191-53, textiles free from nap, pile, tufting, flock, or other type of raised fiber surface when tested as described in said standard shall be classified as class 1, normal FLAMMABILITY, when the time of flame spread is three and one-half seconds or more, and as class 3, rapid and intense burning, when the time of flame spread is less than three and one-half seconds.<sup>1</sup>

#### ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, 6, and 8 (b) of this Act shall be enforced by the Commission under rules, regulations and procedures provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of section 3 of this Act in the same manner, by the same means and with the same jurisdiction, powers and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3 of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Com-

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<sup>1</sup> Subparagraph (c) added by Public No. 629, 83d Cong., Ch. 833, Second Session, S. 3379 (An Act to amend section 4 of the Flammable Fabrics Act, with respect to standards of FLAMMABILITY in the case of certain textiles), approved Aug. 23, 1954.

mission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

(d) The Commission is authorized to—

(1) cause inspections, analyses, tests, and examinations to be made of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this Act; and

(2) cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State, Territory, or possession or with the District of Columbia; or with any department, agency, or political subdivision thereof ; or with any person.

## INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary Injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of this section shall conform as nearly as may be to proceedings in rem in admiralty, except that on demand of either party and in the discretion of the court, any issue of fact shall be tried by jury. Whenever such proceedings involving identical articles of wearing apparel or fabrics are pending in two or more jurisdictions, they may be consolidated for trial by order of any such court upon application seasonably made by any party in interest upon notice to all other parties in interest. Any court granting an order of consolidation shall cause prompt notification thereof to be given to other courts having jurisdiction in the cases covered thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

## PENALTIES

SEC. 7. Any person who willfully violates section 3 or 8 (b) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: Provided, That nothing herein shall limit other provisions of this Act.

## GUARANTY

SEC. 8. (a) No person shall be subject to prosecution under section 7 of this Act for a violation of section 3 of this Act if such person (1) establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the fabric covered by the guaranty, or used in the wearing apparel covered by the guaranty, is not, under the provisions of section 4 of this Act, so highly flammable as to be dangerous when worn by individuals, and (2) has not, by further processing, affected the flammability of the fabric or wearing apparel covered by the guaranty which he received. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case It may be on the invoice or other paper relating to such wearing apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor, in such form as the Commission by rules or regulations may prescribe.

(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced, sold, or transported in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

## SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which, under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

## INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other if any provision of this Act or the application thereof to any person or circumstances Is held Invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

## EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary

course of its business; or (b) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this Act: Provided, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contract or commission service; or (c) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not so highly flammable, under the provisions of section 4 of this Act, as to be dangerous when worn by Individuals.

#### EFFECTIVE DATE

SEC. 12. This Act shall take effect one year after the date of its passage.

#### AUTHORIZATION OF NECESSARY APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act

Approved June 30,1953.

## Textile Fiber Products Identification Act

[Public Law 85-897, 85th Congress, H.R. 469, September 2, 1958]

AN ACT To protect producers and consumers against misbranding and false advertising of the fiber content of textile fiber products, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Textile Fiber Products Identification Act".

#### DEFINITIONS

SEC. 2. As used In this Act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term "fiber" or "textile fiber" means a unit of matter which is capable of being spun into a yarn or made into a fabric by bonding or by interlacing in a variety of methods including weaving, knitting, braiding, felting, twisting, or webbing, and which is the basic structural element of textile products.

(c) The term "natural fiber" means any fiber that exists as such in the natural state.

(d) The term "manufactured fiber" means any fiber derived by a process of manufacture from any substance which, at any point in the manufacturing process, is not a fiber.

(e) The term "yarn" means a strand of textile fiber in a form suitable for weaving, knitting, braiding, felting, webbing, or otherwise fabricating Into a fabric.

(f) The term "fabric" means any material woven, knitted, felted, or otherwise produced from, or in combination with, any natural or manufactured fiber, yarn, or substitute therefor.

(g) The term "household textile articles" means articles of wearing apparel, costumes and accessories, draperies, floor coverings, furnishings, beddings, and other textile goods of a type customarily used in a household regardless of where used in fact.

(h) The term "textile fiber product" means—

(1) any fiber, whether in the finished or unfinished state, used or intended for use in household textile articles;

(2) any yarn or fabric, whether in the finished or unfinished state, used or intended for use in household textile articles; and

(3) any household textile article made in whole or in part of yarn or fabric; except that such term does not include a product required to be labeled under the Wool Products Labeling Act of 1939.

(l) The term "affixed" means attached to the textile fiber product in any manner.

(j) The term "Commission" means the Federal Trade Commission.

(k) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation or between the District of Columbia and any State or Territory or foreign nation.

(1) The term "Territory" includes the insular possessions of the United States, and also any Territory of the United States.

(m) The term "ultimate consumer" means a person who obtains a textile fiber product by purchase or exchange with no intent to sell or exchange such textile fiber product in any form.

#### MISBRANDING AND FALSE ADVERTISING DECLARED UNLAWFUL

SEC. 3. (a) The introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product which is misbranded or falsely or deceptively advertised within the meaning of this Act or the rules and regulations promulgated thereunder, is unlawful, and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce, and which is misbranded or falsely or deceptively advertised, within the meaning of this Act or the rules and regulations promulgated thereunder, is unlawful, and shall be an unfair method of competition and an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, which is misbranded or falsely or deceptively advertised, within the meaning of this Act or the rules and regulations promulgated thereunder, is unlawful, and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(d) This section shall not apply—

(1) to any common carrier or contract carrier or freight forwarder with respect to a textile fiber product received, shipped, delivered, or handled by it for shipment in the ordinary course of its business;

(2) to any processor or finisher in performing a contract for the account of a person subject to the provisions of this Act if the processor or finisher does not change the textile fiber content of the textile fiber product contrary to the terms of such contract;

(3) with respect to the manufacture, delivery for transportation, transportation, sale, or offering for sale of a textile fiber product for exportation from the United States to any foreign country;

(4) to an publisher or other advertising agency or medium for the dissemination of advertising or promotional material, except the manufacturer,

distributor, or seller of the textile fiber product to which the false or deceptive advertisement relates, if such publisher or other advertising agency or medium furnishes to the Commission, upon request, the name and post office address of the manufacturer, distributor, seller, or other person residing in the United States, who caused the dissemination of the advertising material; or

(5) to any textile fiber product until such product has been produced by the manufacturer or processor in the form intended for sale or delivery to, or for use by, the ultimate consumer: Provided, That this exemption shall, apply only if such textile fiber product is covered by an invoice or other paper relating to the marketing or handling of the textile fiber product and such invoice or paper correctly discloses the information with respect to the textile fiber product which would otherwise be required under section 4 of this Act to be on the stamp, tag, label, or other identification and the name and address of the person issuing the invoice or paper.

#### MISBRANDING AND FALSE ADVERTISING OF TEXTILE FIBER PRODUCTS

SEC. 4. (a) Except as otherwise provided in this Act, a textile fiber product shall be misbranded if it is falsely or deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

(b) Except as otherwise provided in this Act, a textile fiber product shall be misbranded if a stamp, tag, label, or other means of identification, or substitute therefor authorized by section 5, is not on or affixed to the product showing in words and figures plainly legible, the following:

(1) The constituent fiber or combination of fibers in the textile fiber product, designating with equal prominence each natural or manufactured fiber in the textile fiber product by its generic name in the order of predominance by the weight thereof if the weight of such fiber is 5 per centum or more of the total fiber weight of the product, but nothing in this section shall be construed as, prohibiting the use of a nondeceptive trademark in conjunction with a designated generic name: Provided, That exclusive of permissible ornamentation, any fiber or group of fibers present in an amount of 5 per centum or less by weight of the total fiber content shall not be designated by the generic name or the trademark of such fiber or fibers, but shall be designated only as "other fiber" or "other fibers" as the case may be.

(2) The percentage of each fiber present, by weight, in the total fiber content of the textile fiber product, exclusive of ornamentation not exceeding 5 per centum by weight of the total fiber content: Provided, That, exclusive of permissible ornamentation, any fiber or group of fibers present in an amount of 5 per centum or less by weight of the total fiber content shall not be designated by the generic name or trademark of such fiber or fibers, but shall be designated only as "other fiber" or "other fibers" as the case may be: Provided further, That in the case of a textile fiber product which contains more than one kind of fiber, deviation in the fiber content of any fiber in such product from the amount stated on the stamp, tag, label, or other identification shall not be a misbranding under this section unless such deviation is in excess of reasonable tolerances which shall be established by the Commission: And provided further, that any such deviation which exceeds said tolerances shall not be a misbranding if the person charged proves that the deviation resulted from unavoidable variations in manufacture and despite due care to make accurate the statements on the tag, stamp, label, or other identification.

(3) The name, or other identification issued and registered by the commission, of the manufacturer of the product or one or more persons subject to section 3 with respect to such product.

(4) If it is an imported textile fiber product the name of the country where processed or manufactured.

(c) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised if any disclosure or implication of fiber content is made in any written advertisement which is used to aid, promote, or assist directly or indirectly in the sale or offering for sale of such textile fiber product, unless the same information as that required to be shown on the stamp, tag, label, or other identification under section 4 (b) (1) and (2) is contained in the heading, body, or other part of such written advertisement, except that the percentages of the fiber present in the textile fiber product need not be stated.

(d) In addition to the information required in this section, the stamp, tag, label, or other means of identification, or advertisement may contain other information not violating the provisions of this Act.

(e) This section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each textile fiber product contained in a package if (1) such textile fiber products are intended for sale to the ultimate consumer in such package (2) such package has affixed to it a stamp, tag, label, or other means of identification bearing, with respect to the textile fiber products contained therein, the information required by subsection (b), and (3) the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each textile fiber product contained therein.

(f) This section shall not be construed as requiring designation of the fiber content of any portion of fabric, when sold at retail, which is severed from bolts, pieces, or rolls of fabric labeled in accordance with the provisions of this section at the time of such sale: Provided, That if any portion of fabric severed from a bolt, piece, or roll of fabric is in any manner represented as containing percentages of natural or manufactured fibers, other than that which is set forth on the labeled bolt, piece, or roll, this section shall be applicable thereto, and the information required shall be separately set forth and segregated as required by this section.

(g) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised if the name or symbol of any fur-bearing animal is used in the advertisement of such product unless such product, or the part thereof in connection with which the name or symbol of a fur-bearing animal is used, is a fur or fur product within the meaning of the Fur Products Labeling Act: Provided, However, That where a textile fiber product contains the hair or fiber of a fur-bearing animal, the name of such animal, in conjunction with the word "fiber", "hair", or "blend", may be used.

(h) For the purposes of this Act, a textile fiber product shall be misbranded if it is used as stuffing in any upholstered product, mattress, or cushion after having been previously used as stuffing in any other upholstered product, mattress, or cushion, unless the upholstered product, mattress, or cushion containing such textile fiber product bears a stamp, tag, or label approved by the Commission indicating in words plainly legible that It contains reused stuffing.

#### REMOVAL OF STAMP, TAG, LABEL, OR OTHER IDENTIFICATION

SEC.5. (a) After shipment of a textile fiber product in commerce it shall be unlawful, except as provided in this Act, to remove or mutilate, or cause or participate in the removal or mutilation of, prior to the time any textile fiber product is sold and delivered to the ultimate consumer, any stamp, tag, label, or other identification required by this Act to be affixed to such textile fiber product, and any person violating this section shall be guilty of an unfair method of competition, and an unfair or deceptive act or practice, under the Federal Trade Commission Act.

(b) Any person—

(1) introducing, selling, advertising, or offering for sale, in commerce, or imparting into the United States, a textile fiber product subject to the provisions of this Act, or

(2) selling, advertising, or offering for sale a textile fiber product whether in its original state or contained in other textile fiber products, which has been shipped, advertised, or offered for sale, in commerce.

may substitute for the stamp, tag, label, or other means of identification required to be affixed to such textile product pursuant to section 4 (b), a stamp, tag, label, or other means of identification conforming to the requirements of section 4(b), and such substituted stamp, tag, label, or other means of identification shall show the name or other identification issued and registered by the Commission of the person making the substitution.

(c) If any person other than the ultimate consumer breaks a package which bears a stamp, tag, label, or other means of identification conforming to the requirements of section 4, and if such package contains one or more units of a textile fiber product to which a stamp, tag, label, or other identification conforming to the requirements of section 4 is not affixed, such person shall affix a stamp, tag, label, or other identification bearing the information on the stamp, tag, label, or other means of identification attached to such broken package to each unit of textile fiber product taken from such broken package.

#### RECORDS

SEC. 6. (a) Every manufacturer of textile fiber products subject to this Act shall maintain proper records showing the fiber content as required by this Act of all such products made by him, and shall preserve such records for at least three years.

(b) Any person substituting a stamp, tag, label, or other identification pursuant to section 5(b) shall keep such records as will show the information set forth on the stamp, tag, label, or other identification that he removed and the name or names of the person or persons from whom such textile fiber product was received, and shall preserve such records for at least three years.

(c) The neglect or refusal to maintain or preserve the records required by this section is unlawful, and any person neglecting or refusing to maintain such records shall be guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce, under the Federal Trade Commission Act.

#### ENFORCEMENT OF THE ACT

SEC. 7. (a) Except as otherwise specifically provided herein, this Act shall be enforced by the Federal Trade Commission under rules, regulations, and procedure provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating the provisions of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act, in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) The Commission is authorized and directed to make such rules and regulations, including the establishment of generic names of manufactured fibers, under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement.

(d) The Commission is authorized to cause inspections, analyses, tests, and examinations to be made of any product subject to this Act.

#### INJUNCTION PROCEEDINGS

SEC. 8. Whenever the Commission has reason to believe—

(a) that any person is doing, or is about to do, an act which by section 3, 5, 6, 9, or 10 (b) is declared to be unlawful; and

(b) that it would be to the public interest to enjoin the doing of such act until complaint is issued by the Commission under the Federal Trade Commission Act and such complaint is dismissed by the Commission or set aside by the court on review or until an order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act, the Commission may bring suit in the district court of the United States or in the United States court of any Territory, for the district or Territory in which such person resides or transacts business, to enjoin the doing of such act and upon proper showing a temporary injunction or restraining order shall be granted without

#### EXCLUSION OF MISBRANDED TEXTILE FIBER PRODUCTS

SEC. 9. All textile fiber products imported into the United States shall be stamped, tagged, labeled, or otherwise identified in accordance with the provisions of section 4 of this Act, and all invoices of such products required pursuant to section 484 of the Tariff Act of 1930, shall set forth, in addition to the matter therein specified, the information with respect to said products required under the provisions of section 4(b) of this Act, which information shall be in the invoices prior to their certification, if such certification is required pursuant to section 484 of the Tariff Act of 1930. The falsification of, or failure to set forth the required information in such invoices, or the falsification or perjury of the consignee's' declaration provided for in section 48 of the Tariff Act of 1930, insofar as it relates to such information, is unlawful, and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act; and any person who falsifies, or perjures the consignee's declaration insofar as it relates to such information, may thenceforth be prohibited by the Commission from importing, or participating in the importation of, any textile fiber product into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act. A verified statement from the manufacturer or producer of such products showing their fiber content as required under the provisions of this Act may be required under regulation prescribed by the Secretary of the Treasury.

#### GUARANTY

SEC. 10. (a) No person shall be guilty of an unlawful act under section 3 if he establishes a guaranty received in good faith, signed by and containing the name and address of the person residing in the United States by whom the textile fiber product guaranteed was manufactured or from whom it was received, that said product is not misbranded or falsely invoiced under the provisions of this Act. Said guaranty shall be (1 ) a separate guaranty specifically designating the textile fiber product guaranteed, in which case it may be on the invoice or other paper relating to said product; or (2) a continuing guaranty given by seller to the buyer applicable to all textile fiber products sold to or

to be sold to buyer by seller in a form as the Commission, by rules and regulations, may prescribe; or (3) a continuing guaranty filed with the Commission applicable to all textile fiber products handled by a guarantor in such form as the Commission by rules and regulations may prescribe.

(b) The furnishing of a false guaranty, except where the person furnishing such false guaranty relies on a guaranty to the same effect received in good faith signed by and containing the name and address of the person residing in the United States by whom the product guaranteed was manufactured or from, whom it was received, is unlawful, and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce, within the meaning of the Federal Trade Commission Act.

#### CRIMINAL PENALTY

SEC. 11. (a) Any person who willfully does an act which by section 3, 5, 6, 9, or 10 (b) is declared to be, unlawful shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$5,000 or be imprisoned not more than one year, or both, in the discretion of the court: Provided, That nothing in this section shall limit any other provision of this Act.

(b) Whenever the Commission has reason to believe that any person is guilty of a misdemeanor under this section, It may certify all pertinent facts to the Attorney General. If, on the basis of the facts certified, the Attorney General concurs in such belief, it shall be his duty to cause appropriate proceedings to be brought for the enforcement of the provisions of this section against such person.

#### EXEMPTIONS

SEC. 12. (a) None of the provisions of this Act shall be construed to apply to—

- (1) upholstery stuffing, except as provided in section 4 (h) ;
- (2) outer coverings of furniture, mattresses, and box springs;
- (3) linings or interlinings incorporated primarily for structural purposes and not for warmth;
- (4) filling or padding incorporated primarily for structural purposes and not for warmth;
- (5) stiffenings, trimmings, facings, or interfacings;
- (6) backings of, and paddings or cushions to be used under, floor coverings;
- (7) sewing and handicraft threads;
- (8) bandages, surgical dressings, and other textile fiber products, the labeling of which is subject to the requirements of the Federal Food, Drug and Cosmetic Act of 1938, as amended;
- (9) waste materials not intended for use in a textile fiber product;
- (10) textile fiber products incorporated in shoes or overshoes or similar outer footwear;
- (11) textile fiber products incorporated in headwear, handbags, luggage, brushes, lampshades, or toys, catamenial devices, adhesive tapes and adhesive sheets, cleaning cloths impregnated with chemicals, or diapers.

The exemption provided for any article by paragraph (3) or (4) of this subsection shall not be applicable if any representation as to fiber content of such article is made in any advertisement, label, or other means of identification covered by section 4 of this Act.

(b) The Commission may exclude from the Provisions of this Act other textile fiber products (1) which have an insignificant or inconsequential textile fiber content, or (2) with respect to which the disclosure of textile fiber content is not necessary for the protection of the ultimate consumer.

#### SEPARABILITY CLAUSE

SEC. 13. If any provision of this Act, or the application thereof to any person, as that term is herein defined, is held invalid, the remainder of the Act and the application of the remaining provisions to any person shall not be affected thereby.

#### APPLICATION OF EXISTING LAWS

SEC. 14. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other Act of the United States.

#### EFFECTIVE DATE

SEC. 15. This Act shall take effect eighteen months after enactment, except for the promulgation of rules and regulations by the Commission, which shall be promulgated within nine months after the enactment of this Act. The Commission shall provide for the exception of any textile fiber product acquired prior to the effective date of this Act.

Approved September 2, 1958.

## General Investigations by the Commission, since 1915

Since its establishment in 1915, the Federal Trade Commission has conducted numerous general inquiries which are alphabetically listed and briefly described in the following pages.<sup>1</sup> They were made at the request of the President, the Congress, the Attorney General, Government agencies, or on motion of the Commission pursuant to the Federal Trade Commission Act.

Reports on these inquiries in many instances have been published as Senate or House documents or as Commission publications. Printed documents, unless indicated as being out of print,<sup>2</sup> may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. Processed publications are available without charge from the Federal Trade Commission while the supply lasts.

Agencies initiating or requesting investigations are indicated in parentheses in the headings. Investigations, the results of which have been published, are listed below. Following this listing are unpublished investigations conducted by the Commission.

Accounting Systems (F.T.C.).—Pointing the way to a general improvement in accounting practices, the Commission, published *Fundamentals of a Cost System for Manufacturers* (H. Doc. 1356, 64th, 31 p., o. p., 7/15/16) and *A System of Accounts for Retail Merchants* (19 p., o. p., 7/15/16).

Accounting Systems.—See *Distribution Cost Accounting*.

Advertising as a Factor in Distribution.—See *Distribution Methods and Costs*.

Agricultural Implements.—See *Farm Implements and Distribution Methods and Costs*.

Agricultural Implements and Machinery (Congress).<sup>3</sup>—Prices of farm products reached record lows in 1932 but prices of many farm implements, machines, and repair parts maintained high levels resulting in widespread complaints in the next few years. The Commission investigated the situation (Public Res. 130, 74th, 6/24/36) and, following submission of its report, *Agricultural Implement and Machinery Industry* (H. Doc. 702, 75th, 1,176 p., 6/6/38, o. p.), the industry made substantial price reductions. The report criticized certain competitive practices on the part of the dominant companies which the companies later promised to remedy. It showed, among other things, that a few major companies had maintained a concentration of control which resulted in large part from their acquisition of the capital stock or assets of competitors prior to enactment of the Clayton Antitrust Act in 1914 and thereafter from their purchase of assets of

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<sup>1</sup> The wartime cost-finding inquiries, 1917-18 (p. 122), include approximately 370 separate investigations.

<sup>2</sup> Documents out of print (designated "o. p.") are available in depository libraries.

<sup>3</sup> Inquiries desired by either House of Congress are now undertaken by the Commission as a result of concurrent resolutions of both Houses.

competitors rather than capital stock.<sup>4</sup> (See also under Farm Implements and Independent Harvester Co.)

Agricultural Income (Congress).—Investigating a decline in agricultural income and increases or decreases in the income of corporations manufacturing and distributing wheat, cotton, tobacco, livestock, milk, and potato products (Public Res. 61, 74th, 8/27/35), and table and juice grapes, fresh fruits and vegetables (Public Res. 112, 74th, 6/20/36), the Commission made recommendations concerning, among other things, the marketing of commodities covered by the inquiry; corporate consolidations and mergers;<sup>5</sup> unbalanced agricultural-industrial relations; cooperative associations; production financing; transportation; and terminal markets. Its recommendations for improvement of the Perishable Agricultural Commodities Act were adopted by Congress in amending that act (Public, 328, 75th) in 1937. [Report of the F.T.C. on Agricultural Income Inquiry, Part I, Principal Farm Products, 1,134 p., 3/2/37 (summary, conclusions, and recommendations, S. Doc. 54, 75th, 40 p., o. p.); Part II, Fruits, Vegetables, and Grapes, 906 p. 6/10/37, o. p.; Part III, Supplementary Report, 154 p., 11/8/37; and interim reports of 12/26/35 (H. Doc. 380, 74th, 6 p.), and 2/1/37 (S. Doc. 17, 75th, 16 p., o. p.).]

Agricultural Prices.—See Price Deflation.

Antibiotics Manufacture (F.T.C.).—Because of the rising importance and the cost of antibiotic drugs, and the lack of published information on their production, a Commission resolution of July 13, 1956, authorized the study which appeared as Economic Report on Antibiotics Manufacture (361 p., 6/27/58). This volume covered the origin and history of the industry, the companies manufacturing antibiotics, production processes, marketing, prices, costs, profits, patents and trademarks, and public health aspects.

Automobiles.—See Distribution Methods and Costs, and Motor Vehicles.

Bakeries and Bread.—See under Food.

Beet Sugar.—See under Food—Sugar.

Building Materials.—See Distribution Methods and Costs.

Calcium Arsenate (Senate).—High prices of calcium arsenate, a poison used to destroy the cotton boll weevil (S. Res. 417, 67th, 1/23/23), appeared to be due to sudden increased demand rather than trade restraints (Calcium Arsenate Industry, S. Doc. 345, 67th, 21 p., o. p., 3/3/23).

Cartels.—See paragraphs headed Copper Industry, International Phosphate Cartels, Sulphur Industry, International Electrical Equipment Cartel, International Steel Cartels, Fertilizer (F.T.C.), International Petroleum Cartels, and International Alkali Cartels.

Cement (Senate).—Inquiry into the cement industry's competitive conditions and distributing processes (S. Res. 448, 71st, 2/16/31) showed that rigid application of the multiple basing-point price system<sup>6</sup> tended to lessen price competition and destroy the value of sealed bids; concerted activities of manufacturers and dealers strengthened the system's price effectiveness; and dealer associations' practices were designed to restrict sales to recognized "legitimate" dealers (Cement Industry, S. Doc. 71, 73d, 160 p., o. p., 6/9/33).

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<sup>4</sup> Conditions With Respect to the Sale and Distribution of Milk and Dairy Products (H. Doc. 94, 75th, 1/4/37), p. 38; Report of the F.T.C. on Agricultural Income Inquiry, Part I (3/2/37), P. 26; Agricultural Implement and Machinery Industry (H. Doc. 702, 75th, 6/6/39), p. 1038; The Present Trend of Corporate Mergers and Acquisitions 3/7/47); The Merger Movement: A Summary Report (1948); and F.T.C. Annual Reports: 1938, pp. 19 and 29; 1939, p. 14; 1940, p. 12; 1941, p. 19; 1942, p. 9; 1943, p. 9; 1944, p. 7; 1945, p. 8; 1946, p. 12; 1947, p. 12; and 1948, p. 11.

<sup>5</sup> See footnote 4 above.

<sup>6</sup> Basing-point systems are also discussed in the published reports listed herein under "Price Bases," "Steel Code," and "Steel Sheet Piling."

Chain Stores (Senate).—Practically every phase of chain-store operation was covered (S. Res. 224, 70th, 5/5/28), including cooperative chains, chain-store manufacturing and wholesale business, leaders and loss leaders, private brands, short weighing and overweighing and sales, costs, profits, wages, special discounts and allowances, and prices and margins of chain and independent grocery and drug distributors in selected cities. (For subtitles of 33 reports published under the general title, Chain Stores, 1931–33, see F.T.C. Annual Report, 1941, p. 201.)

In the Final Report on the Chain-Store Investigation (S. Doc. 4, 74th, 110 p., o. p., 12/14/34), legal remedies available to combat monopolistic tendencies in chain-store development were discussed.<sup>7</sup> The Commission's recommendations pointed the way to subsequent enactment of the Robinson-Patman Act (1936) prohibiting price and other discriminations, and the Wheeler-Lea Act (1938) which amended the Federal Trade Commission Act so as to broaden the prohibition of unfair methods of competition in section 5 to include unfair or deceptive acts or practices in interstate commerce.

Cigarette Shortage (F.T.C. and Senate Interstate Commerce Committee Chairman), Wartime, 1944–45.—In response to complaints from the public and a request from the Chairman of the Senate Interstate Commerce Committee (letter dated 12/1/44), the Commission investigated the cigarette shortage and reported, among other things that the scarcity was directly traceable to the large volume of cigarettes moving to the armed forces and the Allies; that it was not attributable to violations of laws administered by the Commission; but that certain undesirable practices such as hoarding and tie-in sales had developed. (Report of the F.T.C. on the Cigarette Shortage, 33 pages, processed, o. p., 2/13/45.)

Coal (Congress and F.T.C.), Wartime, 1917–18, Etc.—From 1916 through the first World War period and afterward, the Commission at different times investigated anthracite and bituminous coal prices and the coal industry's financial condition. Resulting cost and price reports are believed to have substantially benefited the consumer. Among the published reports were: Anthracite Coal Prices, preliminary (S. Doc. 19, 65th, 4 p., o. p., 5/4/17); Preliminary Report by the F.T.C. on the Production and Distribution of Bituminous Coal (H. Doc. 152, 65th, 8 p., o. p., 5/19/17); Anthracite and Bituminous Coal Situation, summary (H. Doc. 193, 65th, 29 p., o. p., 6/19/17); and Anthracite and Bituminous Coal (S. Doc. 50, 65th, 420 p., o. p., 6/19/17)—pursuant to S. Res. 217, 64th 2/22/16; H. Res. 352, 64th, 8/18/16, and S. Res. 51, 65th, 5/1/17; Washington, D.C., Retail Coal Situation (5 p., release, processed, o. p., 8/11/17)—pursuant to F. T. C. motion; Investment and Profit in Soft-Coal Mining (two parts, 5/31/22 and 7/6/22, 218 p., o. p., S. Doc. 207, 65th)—pursuant to F.T.C. motion; and Report of the F.T.C. on Premium Prices of Anthracite (97 p., o. p., 7/6/25)—pursuant to F.T.C. motion.

Coal, Cost of Production (F.T.C.), Wartime, 1917–18.—President Wilson fixed coal prices by Executive order under the Lever Act (1917) on the basis of information furnished by the Commission. For use of the U.S. Fuel Administration in continuing price control, the Commission compiled monthly cost production reports, collecting cost records for 1917–18 for about 99 percent of the anthracite and 95 percent of the bituminous coal production (Cost Reports of the F.T.C.—Coal, 6/30/19, summarized for principal coal-producing States or regions: (1) Pennsylvania, bituminous, 103 p., o. p.; (2) Pennsylvania, anthracite, 145 p., o. p.; (3) Illinois, bituminous, 127 p., o. p.; (4) Alabama, Tennessee, and Kentucky, bituminous, 210 p., o. p.; (5) Ohio, Indiana, and Michigan, bituminous, 288 p., o. p.; (6) Maryland, West Virginia, and Virginia, bituminous, 286 p.o.p.; and (7) trans-Mississippi States, bituminous, 459 p., o. p.).

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<sup>7</sup> See footnote 4.

Coal, Current Monthly Reports (F.T.C.).—The Commission (December 1919) initiated a system of current monthly returns from the soft coal industry similar to those compiled during the World War, 1917–18 (Coal—Monthly Reports on Cost of Production, 4/20/20 to 10/30/20, Nos. 1 to 6, and two quarterly reports with revised costs, 8/25/20 and 12/6/20, processed, o. p.). An injunction to prevent the calling for the monthly reports (denied about 7 years later) led to their abandonment.

Coffee (F.T.C.).—In its 1954 Economic Report of the investigation of Coffee Prices, the Commission reported that the coffee price spiral of 1953–54 "cannot be explained in terms of the competitive laws of supply and demand." The report lists and discusses six major factors responsible for the price spiral, and recommends Congressional action to correct some of the "market imperfections" and "irregularities" found. (523 pp., 7/30/54.)

Combed Cotton Yarns.—See Textiles.

Commercial Bribery (F.T.C.).—Investigating the prevalence of bribery of customers' employees as a means of obtaining trade, the Commission published A Special Report on Commercial Bribery (H. Doc. 1107, 65th, 3 p., o. p., 5/15/18), recommending legislation striking at this practice; Commercial Bribery (S. Doc. unnumbered, 65th, 36 p., o. P., 8/22/18); and Commercial Bribery (S. Doc. 258, 66th, 7 p., o. p., 3/18/20).

Concentration in Manufacturing, Changes in, 1935 to 1947 and 1950 (F.T.C.).—This 153-page report shows that, on the basis of a study of the top 200 companies, concentration in American manufacturing was 2.8 percentage points higher in 1950 than in 1935. The report explores the reasons for the changes in recorded concentration in individual industries.

Concentration of Productive Facilities (F.T.C.).—In a study of the extent of concentration of economic power, the Commission reported that 46 percent of the total net capital assets of all manufacturing corporations in the United States in 1947 was concentrated in the 113 largest manufacturers. The report is entitled The Concentration of Productive Facilities, 1947—Total Manufacturing and 26 Selected Industries (96 p.). See also Divergence between Plant and Company Concentration. ,

Control of Iron Ore (F.T.C.).—A study of the concentration of iron ore supplies covers the sources and consumption of iron ore in 1948, an estimate of reserves available to major companies and an analysis of effect of possible shortage on big and small companies. The Control of Iron Ore, o. p. (1952).

Cooperation in American Export Trade.—See Foreign Trade.

Cooperation in Foreign Countries (F.T.C.).—Inquiries made by the Commission regarding the cooperative movement in 15 European countries resulted in a report, Cooperation in Foreign Countries (S. Doc. 171, 68th, 202 p., o. p., 11/29/24), recommending further development of cooperation in the United States.

Cooperative Marketing (Senate).—This inquiry (S. Res. 34, 69th, 3/17/25) covered the development of the cooperative movement in the U.S. and illegal interferences with the formation and operation of cooperatives; and a comparative study of costs, prices, and marketing methods (Cooperative Marketing, S. Doc. 95, 70th, 721 p., o. p., 4/30/28).

Copper.—See Wartime Cost Finding, 1917–18.

Copper Industry (F.T.C.).—The Commission's report on The Copper Industry, transmitted to Congress (3/11/47), was in two parts: Part I—The Copper Industry of the United States and International Copper Cartels, and Part II—Concentration and Control by the Three Dominant Companies, o. p. The Commission reported that "The copper situation is particularly serious, not only because of the concentration of control of the ore reserves and of the productive capacity, but

also because the domestic supply is inadequate to meet the demands of high level national production and employment. Furthermore, the production of foreign copper, on which the United States will become increasingly dependent, is likewise dominated by a few corporate groups which in the past have operated cooperatively in cartels to regulate production and prices."

Corporation Reports.—See Quarterly Financial Reports.

Corporate Mergers and Acquisitions (F.T.C.).—To determine the impact on the Nation's economy of corporate mergers and acquisitions, the Commission made a study of the merger movement for the years 1940–46, inclusive. The results of the study were transmitted to Congress in a report entitled *The Present Trend of Corporate Mergers and Acquisitions* (23 p., o. p., 3/7/47), which showed, among other things, that during the period covered, more than 1,800 formerly independent competitive firms in manufacturing and mining industries alone had disappeared as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only three industries, food, nonelectrical machinery, and textiles and apparel—all predominantly "small business" fields.

In 1948 the Commission published *The Merger Movement: A Summary Report* (134 p., o. p., also 7 p. processed summary). In this report the legal history of the antimerger provisions of the Clayton Act is reviewed. Significant individual mergers are examined in detail. Maps, diagrams, charts and tabular statistical materials are used to illustrate the economic effects of the then in force antimerger legislation.

The Report on Corporate Mergers and Acquisitions (210 p.) was published in May 1955. This study, bringing up to date much of the statistical material in the 1947 and 1948 reports, showed, among other things, that 1,773 formerly independent competitive firms in manufacturing and mining industries alone had disappeared in the period 1947–54 as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only 3 industries, food, nonelectrical machinery, and textiles and apparel—all predominantly small business fields.

Cost Accounting.—See Accounting Systems.

Cost of Living (President), Wartime, 1917–18.—Delegates from the various States met in Washington, April 30 and May 1, 1917, at the request of the Federal Trade Commission, and considered the rapid rise of wartime prices and the plans then being made for the Commission's general investigation of foodstuffs. [See *Foods (President), Wartime, 1917–18*, herein.] Proceedings of the conference were published (*High Cost of Living*, 119 p., o. p.).

Cotton Industry.—See Textiles.

Cottonseed Industry (House).—Investigating alleged price fixing (H. Res. 439, 69th, 3/2/27), the Commission reported evidence of cooperation among State associations but no indication that cottonseed crushers or refineries had fixed prices in violation of the antitrust laws (*Cottonseed Industry*, H. Doc. 193, 70th, 37 p., 3/5/28).

Cottonseed Industry (Senate).—Two resolutions (S. Res. 136, 10/21/29, and S. Res. 147, 11/2/29—71st) directed the Commission to determine whether alleged unlawful combinations of cottonseed oil mill corporations sought to lower and fix prices of cottonseed and to sell cottonseed meal at a fixed price under boycott threat; and whether such corporations acquired control of cotton gins to destroy competitive markets and depress or control prices paid to seed producers (*Investigation of the Cottonseed Industry*, preliminary report, S. Doc. 91, 71st, 4 p., o. p., 2/28/30, and final report, 207 p., o. p., with 11 vols. testimony, S. Doc. 209, 71st, 5/19/33).

Distribution Cost Accounting (F.T.C.).—To provide a guide for current legislation and determine ways for improving accounting methods, the Commission studied distribution cost accounting in connection with selling, warehousing, handling, delivery, credit and collection (Case Studies in Distribution Cost Accounting for Manufacturing and Wholesaling, H. Doc. 287, 77th, 215 p., o. p., 6/23/41).

Distribution.—See Millinery Distribution.

Distribution of Steel Consumption.—A study to determine the distribution of steel in a time of shortage, when control over distribution rests with the producers. (1949–1950) The results of the study were transmitted to the Subcommittee on Monopoly of the Senate Select Committee on Small Business and published as a committee print. (20p) o. p., 3/31/52.

Distribution Methods and Costs (F.T.C.).—This Inquiry into methods and costs of distributing important consumer commodities (F.T.C. Res., 6/27/40) was undertaken by the Commission pursuant to authority conferred upon it by section 6 of the F.T.C. Act. Eight parts of the F.T.C. Report on Distribution Methods and Costs were transmitted to Congress and published under the subtitles: Part I, Important Food Products (11/11/43, 223 p., o. p.); Part III, Building Materials—Lumber, Paints and Varnishes, and Portland Cement (2/19/44, 50 p., o. p.); Part IV, Petroleum Products, Automobiles, Rubber Tires and Tubes, Electrical Household Appliances, and Agricultural Implements (3/2/44, 189 p., o. p.); Part V, Advertising as a Factor in Distribution (10/30/44, 50 p.); Part VI, Milk Distribution, Prices, Spreads and Profits (6/18/45, 58 p., o. p.); Part VII, Cost of Production and Distribution of Fish in the Great Lakes Area (6/30/45, 59 p.); Part VIII, Cost of Production and Distribution of Fish in New England (6/30/45, 118 p.); and Part IX, Cost of Production and Distribution of Fish on the Pacific Coast (7/25/46, 82 p.). The Inquiries relating to fish were conducted in cooperation with the Coordinator of Fisheries, Interior Department. During World War II special reports on the distribution of some 20 commodity groups were made for confidential use of the Office of Price Administration and other war agencies.

Divergence Between Plant and Company Concentration (F.T.C.).—In this 1950 report, the Commission measured the divergence between plant and company concentration for each of 340 manufacturing industries. The Divergence between Plant and Company Concentration, 1947 (162 p., o. p.). See also Concentration of Productive Facilities.

Du Pont Investments (F.T.C.).—The Report of the F.T.C. on Du Pont Investments (F.T.C. motion 7/29/27; report, 46 p., o. p. processed, 2/1/29) discussed reported acquisition by E. I. du Pont de Nemours & Co. of U.S. Steel Corp. stock, together with previously reported holdings in General Motors Corp.

Electric and Gas Utilities, and Electric Power.—See Power.

Farm Implements (Senate), Wartime, 1917–18.—The Report of the F.T.C. on the Causes of High Prices of Farm Implements (inquiry under S. Res. 223, 65th, 5/13/18; report, 713 p., o. p., 5/4/20) disclosed numerous trade combinations for advancing prices and declared the consent decree for dissolution of International Harvester Co. to be inadequate. The Commission recommended revision of the decree and the Department of Justice proceeded to that end.

Farm Implements (F.T.C.).—A 1948 report on the Manufacture and Distribution of Farm Implements (160 p., also 8 p. processed summary) concerns the production and distribution policies of large manufacturers of farm machinery. The report includes information respecting important developments and trends in the industry.

Feeds, Commercial (Senate).—Seeking to determine whether purported combinations in restraint of trade existed (S. Res. 140, 66th, 7/31/19), the Com-

mission found that although some association activities were in restraint of trade, there were no substantial antitrust violations (Report of the F.T.C. on Commercial Feeds, 206 p., o. p., 3/29/21).

Fertilizer (Senate).—Begun by the Commissioner of Corporations<sup>8</sup> (S. Res. 487, 62d, 3/1/13), this inquiry disclosed extensive use of bogus independent fertilizer companies for competitive purposes (Fertilizer Industry, S. Doc. 551, 64th, 269 p., o. p., 8/19/16). Agreements for abolition of such unfair competition were reached.

Fertilizer (Senate).—A second fertilizer inquiry (S. Res. 307, 67th, 6/17/22) developed that active competition generally prevailed in that industry in the U.S., although in some foreign countries combinations controlled certain important raw materials. The Commission recommended improved agricultural credits and more extended cooperation by farmers in buying fertilizer (Fertilizer Industry, S. Doc. 347, 67th, 87 p., o. p., 3/3/23).

Fertilizer (F.T.C.).—The Commission's 1949 report on The Fertilizer Industry (100 p.) is concerned primarily with restrictions and wastes which interfere with the supply of plant food materials in the quantities needed and at prices low enough to facilitate maintenance of soil fertility. The Nation's resources of nitrogen, phosphate, and potash are discussed, and the inter-relationships of producers and mixers are reviewed. The report also summarizes available information concerning cartel control of nitrogen, phosphates, and potash.

Fish.—See Distribution Methods and Costs.

Flags (Senate), Wartime, 1917–18.—Unprecedented increases in the prices of U.S. flags in 1917, due to wartime demand, were investigated (S. Res. 35, 65th, 4/16/17). The Inquiry was reported in Prices of American Flags (S. Doc. 82, 65th, 6 p., o. p., 7/26/17).

Flour Milling.—See Food, below.

Food (President), Wartime, 1917–18.—President Wilson, as a wartime emergency measure (2/7/17), directed the Commission "to investigate and report the facts relating to the production, ownership, manufacture, storage, and distribution of foodstuffs" and "to ascertain the facts bearing on alleged violations of the antitrust acts." Two major series of reports related to meat packing and the grain trade with separate inquiries into flour milling, canned vegetables and fruits, canned salmon, and related matters, as listed below.

Food (President) Continued—Meat Packing.—Food Investigation-Report of the F.T.C. on the Meat-Packing Industry was published in six parts: I. Extent and Growth of Power of the Five Packers in Meat and Other Industries (6/24/19, 574 p., o. p.); II. Evidence of Combination Among Packers (11/25/18, 294 p., o. p.); III. Methods of the Five Packers in Controlling the Meat-Packing Industry (6/28/19, 325 p., o. p.); IV. The Five Large Packers in Produce and Grocery Foods (6/30/19, 390 p., o. p.); V. Profits of the Packers (6/28/19, 110 p., o. p.); VI. Cost of Growing Beef Animals, Cost of Fattening Cattle, and Cost of Marketing Livestock (6/30/19, 183 p., o. p.); and summary (H. Doc. 1297, 65th, 51 p., o. p., 7/3/18).

The reports first led to antitrust proceedings against the Big Five Packers, resulting in a consent decree (Supreme Court of the D.C., 2/27/20),<sup>9</sup> which had substantially the effect of Federal legislation in restricting their future operations to certain lines of activity. As a further result of the investigation, Con-

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<sup>8</sup> The Commission was created September 26, 1914, upon passage of the Federal Trade Commission Act, sec. 8 of which provided that "all pending investigations and proceedings of the Bureau of Corporations (of the Department of Commerce) shall be continued by the Commission."

<sup>9</sup> The legal history of the consent decree and a summary of divergent economic interests involved in the question of packers participation in unrelated lines of food products were set forth by the Commission in Packer Consent Decree (S. Doc. 219, 68th, 44 p. o. p., 2/20/25), prepared pursuant to S. Res. 278, 68th, 12/8/24.

gress enacted the Packers and Stockyards Act (1921), adopting the Commission's recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Limitation, p. 150.)

Food (President) Continued—Grain Trade.—Covering the industry from country elevator to central market, the Report of the F.T.C. on the Grain Trade was published in seven parts: I. Country Grain Marketing (9/15/20, 350 p., o. p.); II. Terminal Grain Markets and Exchanges (9/15/20, 333 p., o. p.); III. Terminal Grain Marketing (12/21/21, 332 p., o. p.); IV. Middlemen's Profits and Margins (9/26/23, 215 p., o. p.); V. Future Trading Operations in Grain (9/15/20 347 p., o. p.); VI. Prices of Grain and Grain Futures (9/10/24, 374 p., o. p.); and VII. Effects of Future Trading (6/25/26, 419 p., o. p.). The investigation as reported in vol. V, and testimony by members of the Commission's staff (U. S. Congress House Committee on Agriculture, Future Trading, hearings, 67th, April 25–May 2, 1921) was an important factor in enactment of the Grain Futures Act (1921). (Further reference to the grain trade is made under Grain Elevators, Grain Exporters, and Grain Wheat Prices, p. 149.)

Food (President) Continued—Bakeries and Flour Milling.—One F.T.C. report was published by the Food Administration (U.S. Food Administration, Report of the F.T.C. on Bakery Business in United States, pp. 5–13, o. p. 1133/17). Other reports were: Food Investigation, Report of the F.T.C. on Flour Milling and Jobbing (4/4/18, 27 p., o. p.) and Commercial Wheat Flour Milling (9/15/20, 118 p., o. p.).

Food (President) Continued—Canned Foods,<sup>10</sup> Private Car Lines, Wholesale Food Marketing.—Under the general title Food, Investigation were published Report of the F.T.C. on Canned Foods—General Report and Canned Vegetables and Fruits (5/18/18, 83 p., o. p.); Report of the F.T.C. on Canned Foods—Canned Salmon (12/27/18, 83 p., o. p.); Report of the F.T.C. on Private Car Lines, regarding transportation of meats, fruits, and vegetables (6/27/19, 271 p., o. p.); and Report of the F.T.C. on Wholesale Marketing of Food (6/30/19, 268 p., o. p.), which recommended that a wholesale dealer in perishable food products should be required to procure a Federal license and that Federal inspection and standards should be provided. Provisions in accordance with these recommendations were incorporated in the Perishable Agricultural Commodities Act (1930).

Food—Bread and Flour (Senate).—Reports on this inquiry (S. Res. 163, 68th, 2/26/24) were: Competitive Conditions in Flour Milling (S. Doc. 97, 70th, 140 p., o. p., 5/3/26); Bakery Combines and Profits (S. Doc. 212, 69th, 95 p., 2/11/27); competition and Profits in Bread and Flour (S. Doc. 98, 70th, 509 p., o. p., 1/11/28); and Conditions in the Flour Milling Business, supplementary (S. Doc. 96, 72d, 26 p., o. p., 5/28/32).

Food—Wholesale Baking Industry (F.T.C.).—This inquiry (F.T.C. Res., 8/31/45) resulted in two reports to Congress: Wholesale Baking Industry, Part I—Waste in the Distribution of Bread (4/22/46, processed, 29 p., o. p. and Wholesale Baking Industry, Part II—Costs, Prices and Profits (8/7/46, 137 p., o. p.). Part I developed facts concerning wasteful and uneconomic practices in the distribution of bread, including consignment selling which involves the taking back of unsold bread; furnishing, by gift or loan, bread racks, stands, fixtures, etc., to induce distributors to handle a given company's products. It was found that, although War Food Order No. 1 which prohibited these practices was only partially observed, in 1945 as compared with 1942, the quantity of bread saved

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<sup>10</sup> In connection with its wartime cost finding inquiries, 1917–18, p. 124 herein, the Commission published Report of the F.T.C. on Canned Foods 1918— Corn, Peas, String Beans, Tomatoes, and Salmon (86 p., 11/21/21).

was sufficient to supply the population of England, Scotland, and Wales with a daily ration of one-third of a loaf for 30 days, the population of France for 36 days, or the population of Finland for nearly 1 year. The Commission suggested that "a careful examination of present laws be made by the legislative and executive branches of the Government to determine what legislation, if any, is needed to permanently eliminate wasteful trade practices and predatory competition which threaten the existence of many small bakers, foredoom new ventures to failure and promote regional monopolistic control of the wholesale bread-baking industry."

Part II presents information concerning prices and pricing practices in the industry, profits earned, and unit costs of production and distribution. It compares the details of production and distribution costs for bread and rolls, other bakery products, and for all bakery products for two operating periods in 1945, March and September. Comparisons of costs are also made for these two periods for plants arranged by geographical areas. Comparisons of the costs of production and distribution are made by size groups of wholesale bakeries.

Food—Fish.—See Distribution Methods and Costs.

Food—Flour Milling (Senate).—This study of costs, profits, and other factors (S. Res. 212, 67th, 1/18/22) was reported in *Wheat Flour Milling Industry* (S. Doc. 130, 68th, 130 p., o. p., 5/16/24).

Food—Flour-Milling Industry, Growth and Concentration in (F.T.C.).—The Commission's study showed that there has been a progressive increase in the size of flour-mill operations and a progressive decrease in the number of flour-milling establishments. Nevertheless, the Commission reported, there is a lesser degree of concentration in the flour-milling industry than in many other important industries. The results of the study were presented to Congress in a report on the Growth and Concentration in the Flour-Milling Industry (6/2/47, 36 p.).

Food—Grain Elevators (F.T.C.), Wartime, 1917–18.—In view of certain bills pending before Congress with reference to regulation of the grain trade, the Commission, in a preliminary report, *Profits of Country and Terminal Grain Elevators* (S. Doc. 40, 67th, 12 p., o. p., 6/13/21) presented certain data collected during its inquiry into the grain trade ordered by the President.

Food—Grain Exporters (Senate).—The low prices of export wheat in 1921 gave rise to this inquiry (S. Res. 133, 67th, 12/22/21) concerning harmful speculative price manipulations on the grain exchanges and alleged conspiracies among country grain buyers to agree on maximum purchasing prices. The Commission recommended stricter supervision of exchanges and additional storage facilities for grain not controlled by grain dealers (Report of the F.T.C. on *Methods and Operations of Grain Exporters*, 2 vols., 387 p., o. p., 5/16/22 and 6/18/23).

Food—Grain, Wheat Prices (President).—An extraordinary decline of wheat prices was investigated (President Wilson's directive 10/12/20) and found to be due chiefly to abnormal market conditions (Report of the F.T.C. on *Wheat Prices for the 1920 Crop*, 91 p., o. p., 12/13/20).

Food—Important Food Products.—See Distribution Methods and Costs.

Food—Marketing (F.T.C.).—On October 9, 1958, the Commission launched a study of significant economic trends in food marketing. In the first phase of this investigation facts were developed concerning the growth of corporate chains and voluntary and cooperative wholesalers. On June 30, 1959, the Commission published a statistical report entitled *Economic Inquiry into Food Marketing—Interim Report* (6 p., 22 tables, o. p.). This was followed by publication of *Economic Inquiry into Food Marketing, Part I, Concentration and Integration in Retailing* (January 1960, 338 p.).

Food—Meat Packing Profit Limitation (Senate), Wartime, 1917–18.—Following an inquiry (S. Res. 177, 66th, 9/3/19) involving wartime control of this business as established by the U.S. Food Administration in 1917–18, the Com-

mission recommended greater control and lower maximum profits (Maximum Profit Limitation on Meat Packing Industry, S. Doc. 110, 66th, 179 p., o. p. 9/25/19).

Food—Milk.—See Distribution Methods and Costs.

Food—Milk and Milk Products (Senate), Wartime, 1917–18.—Covering an inquiry (S. Res. 431, 65th, 3/3/19) into fairness of milk prices to producers and of canned-milk prices to consumers, the Report of the F.T.C. on Milk and Milk Products 1914–18 (6/6/21, 234 p., o. p.) showed a marked concentration of control and questionable practices many of which later were recognized by the industry as being unfair.

Food—Milk and Dairy Products (House).—Competitive conditions in different milk-producing areas were investigated (H. Con. Res. 32, 73d, 6/15/34). Results of the inquiry were published in seven volumes: Report of the F.T.C. on the Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds (H. Doc. 152, 74th, 901 p., o. p., 4/5/35); Report of the F.T.C. on the Sale and Distribution of Milk and Milk Products (Connecticut and Philadelphia milksheds, interim report, H. Doc. 387, 74th, 125 p., o. p., 12/31/35); Chicago Sales Area (H. Doc. 451, 74th, 103 p., o. p., 4/15/36); Boston, Baltimore, Cincinnati, St. Louis (H. Doc. 501, 74th, 243 p., o. p., 6/4/36); Twin City Sales Area (H. Doc. 506, 74th, 71 p., o. p., 6/13/36); and New York Milk Sales Area (H. Doc. 95, 75th, 138 p., o. p., 9/30/36). The Commission reported that many of the industry's problems could be dealt with only by the States and recommended certain legislation and procedure, both State and Federal (Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products, H. Doc. 94, 75th, 39 p., o. p., 1/4/37). Legislation has been enacted in a number of States carrying into effect all or a portion of the Commission's recommendations.

Food—Peanut Prices (Senate).—An alleged price-fixing combination of peanut crushers and mills was investigated (S. Res. 139, 71st, 10/22/29). The Commission found that an industry-wide decline in prices of farmers' stock peanuts during the business depression was not due to such a combination, although pricing practices of certain mills tended to impede advancing and to accelerate declining prices (Prices and Competition Among Peanut Mills, S. Doc. 132, 72d., 78 p., o. p., 6/30/32).

Food—Raisin Combination (Attorney General).—Investigating allegations of a combination among California raisin growers (referred to F.T.C. 9/30/19), the Commission found the enterprise not only organized in restraint of trade but conducted in a manner threatening financial disaster to the growers. The Commission recommended changes which the growers adopted (California Associated Raisin Co., 26 p., processed, o. p., 6/8/20).

Food—Southern Livestock Prices (Senate).—Although the low prices of southern livestock in 1919 gave rise to a belief that discrimination was being practiced, a Commission investigation (S. Res. 133, 66th, 7/25/19) revealed the alleged discrimination did not appear to exist (Southern Livestock Prices, S. Doc. 209, 66th, 11 p., o. p., 2/2/20).

Food—Sugar (House).—An extraordinary advance in the price of sugar in 1919 (H. Res. 150, 66th, 10/1/19) was found to be due chiefly to speculation and hoarding. The Commission made recommendations for correcting these abuses (Report of the F.T.C. on Sugar Supply and Prices, 205 p., o. p., 11/15/20).

Food—Sugar, Beet (F.T.C.).—Initiated by the Commissioner of Corporations,<sup>11</sup> but completed by the F.T.C., this inquiry dealt with the cost of growing beets and the cost of beet-sugar manufacture (Report on the Beet Sugar Industry in the U.S., H. Doc. 158, 65th, 164 p., o. p., 5/24/17).

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<sup>11</sup> See footnote 8.

Foreign Trade—Antidumping Legislation (F.T.C.).—To develop information for use of Congress in its consideration of amendments to the antidumping laws, the Commission studied recognized types of dumping and provisions for preventing the dumping of goods from foreign countries (Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries, S. Doc. 112, 73d, 100 p., o. p., 1/11/34; supplemental report, 111 p., o. p., processed, 6/27/38).

Foreign Trade—Cooperation in American Export Trade (F.T.C.).—This inquiry related to competitive conditions affecting Americans in international trade. The Export Trade Act, also known as the Webb-Pomerene law, authorizing the association of U.S. manufacturers for export trade, was enacted as a result of Commission recommendations (Cooperation in American Export Trade, 2 vols., 984 p., o. p., 6/30/16; also summary, S. Doc. 426, 64th, 7 p., o. p., 5/2/16; and conclusions 1916. 14 p., o. p.).

Foreign Trade—Cotton Growing Corporation (Senate).—The report of an inquiry (S. Res. 317, 68th, 1/27/25) concerning the development of this British company, Empire Cotton Growing Corporation (S. Doc. 226, 68th, 30 p., o. p., 2/28/25), showed there was then little danger of serious competition with the American grower or of a possibility that the United States would lose its position as the largest producer of raw cotton.

Gasoline.—See Petroleum.

Grain.—See Food.

Grain Exchange Actions (F.T.C. and Chairman of Senate Committee on Agriculture and Forestry).—The Commission's report on Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946 (85 p., o. p., 2/4/47) presents results of a special study made at the request of the then Chairman of the Senate Committee on Agriculture and Forestry. The report reviews the factors which made it impossible, during the first half of 1946, for futures trading to be conducted in the usual manner on the Chicago, Kansas City and Minneapolis grain exchanges under existing conditions of Government price control and severe restrictions on the movement of short supplies of free grain in the cash market. The report also discusses the economic effects of emergency actions taken by the exchanges on the interests trading in futures, and suggests, among other things, that both the Commodity Exchange Act and the U.S. Warehouse Act "should be so amplified and coordinated, or even combined, as to make effective the type and scope of regulation over futures trading contemplated by the Congress in enacting the Commodity Exchange Act."

Guarantee Against Price Decline (F.T.C.).—Answers to a circular letter (12/26/19) calling for information and opinions on this subject were published in Digest of Replies in Response to an Inquiry of the F.T.C. Relative to the Practice of Giving Guarantee Against Price Decline (68 p., o. p. 5/27/20).

Housefurnishings (Senate).—This inquiry (S. Res. 127, 67th, 1/4/22) resulted in three volumes showing concerted efforts to effect uniformity of prices in some lines (Report of the F.T.C. on Housefurnishing Industries, 1018 p., o. p., 1/17/23, 10/1/23, and 10/6/24).

Independent Harvester Co. (Senate), Wartime, 1917–18.—After investigation (S. Res. 212, 65th, 3/11/18) of the organization and methods of operation of the company which had been formed several years before to compete with the "harvester trust," but which had passed into receivership, the F.T.C. Report to the Senate on the Independent Harvester Co. (5 p., release, processed, o. p., 5/15/18) showed the company's failure was due to mismanagement and insufficient capital.

Industrial Concentration and Product Diversification in the 1,000 Largest Manufacturing Companies: 1950 (F.T.C.).—This purely statistical report published in January 1957 has 127 pages of text which state the findings in 52 text tables and 22 charts covering all manufacturing, food, electrical apparatus, and transportation equipment, and 529 pages of appendix tables covering these and other manufacturing industries. The 4 leading shippers of each product are identified, but shipments by individual companies are not disclosed.

Interlocking Directorates (F.T.C.).—This 1950 report on Interlocking Directorates summarizes the interlocking relationships among directors of the 1,000 largest manufacturing corporations. It also covers the interlocking directorates between these corporations and a selected list of banks, investment trusts, insurance companies, railroads, public utilities, and distributive enterprises.

International Alkali Cartels (F.T.C.).—In a report (1950) on International Cartels in the Alkali Industry, o. p., the Commission discussed the nature, extent, and effect of international agreements concerning baking soda, soda ash, and caustic soda to which organized groups of American and European alkali producers were parties from 1924 until 1946.

International Electrical Equipment Cartel (F.T.C.).—In its 1948 report on this subject (107 p., also 10 p. processed summary) the Commission points out the high degree of economic concentration in the electrical equipment industry which exists in each of the important Industrial nations.

International Petroleum Cartel.—A staff study of the activities of the seven major oil companies in relation to control over the international oil industry. Staff Report to the Federal Trade Commission submitted to the Subcommittee on Monopoly of the Select Committee on Small Business, U.S. Senate Committee print No. 6, 82d Cong.—2d sess. 378 p., o. p., 1952.

International Phosphate Cartels (F.T.C.).—The F.T.C. Report on International Phosphate Cartels (F.T.C. Res. 9/19/44) developed facts with respect to the practices, arrangements and agreements between domestic phosphate companies and foreign competitors through international cartels, through which minimum export prices were fixed. These prices varied from market to market, depending upon competition, ocean freight rates, and other factors. The agreements established fixed quotas in each grade, and sales were allocated among members of the Phosphate Export Association according to their quotas and the grade involved. The report (processed, 60 p.) was transmitted to Congress 5/1/46.

International Steel Cartels (F.T.C.).—A report to Congress concerning numerous cartel agreements relating to steel which were adopted between World War I and World War II. Certain American companies participated in these agreements, which were both national and international in scope. The International agreements allotted quotas to the different national groups, fixed prices in the export trade, and established reserved and unreserved areas. (International Steel Cartels (1948), 115 p., o. p., also 12 p. processed summary.)

Iron Ore.—See Control of Iron Ore.

Large Manufacturing Companies (F.T.C.).—This 1951 report, entitled A List of 1,000 Large Manufacturing Companies, Their Subsidiaries and Affiliates, 1948, shows for each of the 1,000 largest manufacturing corporations which publish financial statements the percentage of stock interest held by the corporation in each of its subsidiaries and affiliates. The parent corporations are grouped in 21 major industries and ranked as to size on the basis of their total assets In 1948, 223 p., o. p., 6/1/51.

Leather and Shoes (F.T.C. and House), Wartime, 1917–18.—General complaint regarding high prices of shoes led to this inquiry, which is reported in Hide and Leather Situation, preliminary report (H. Doc. 857, 65th, 5 p., o. p., 1/23/18),

and Report on Leather and Shoe Industries (180 p., o. p., 8/21/19). A further study (H. Res. 217, 66th, 8/19/19) resulted in the Report of the F.T.C. on Shoe and Leather Costs and Prices (212 p., o. p., 6/10/21).

Lumber—Costs.—See Wartime Cost Finding, 1917–18.

Lumber Trade Associations (Attorney General).—The Commission's extensive survey of lumber manufacturers' associations (referred to F.T.C., 9/4/19) resulted in Department of Justice proceedings against certain associations for alleged antitrust law violations. Documents published were: Report of the F.T.C. on Lumber Manufacturers' Trade Associations, incorporating regional reports of 1/10/21, 2/18/21, 6/9/21, and 2/15/22 (150 p., o. p.); Report of the F.T.C. on Western Red Cedar Association, Lifetime Post Association, and Western Red Cedarmen's Information Bureau (22 p., o. p., 1/24/23), also known as Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountain and Mississippi Valley Territory (S. Doc. 293, 67th, o. p.); and Report of the F.T.C. on Northern Hemlock and Hardwood Manufacturers Association (52 p., o. p., 5/7/23).

Lumber Trade Association (F.T.C.).—Activities of five large associations were investigated in connection with the Open-Price Associations inquiry to bring down to date the 1919 lumber association inquiry (Chap. VIII of Open-Price Trade Associations, S. Doc. 226, 70th, 516 p., o. p., 2/13/29).

Meat-Packing Profit Limitations.—See Food.

Mergers (F.T.C.).—(See Corporate Mergers.)

Milk.—See Food.

Millinery Distribution (President).—This inquiry, requested by President Roosevelt, embraced growth and development of syndicates operating units for retail millinery distribution, the units consisting of leased departments in department or specialty stores (Report to the President of the United States on Distribution Methods in the Millinery Industry, 65 p., processed, 11/21/39, o. p.).

Monopolistic Practices and Small Business.—A study by the staff of the Commission on the effect of certain monopolistic practices on small business, requested by the Subcommittee on Monopoly of the Senate Select Committee on Small Business. The results were transmitted to the Subcommittee and published as a committee print by Select Committee on Small Business, U.S. Senate, 82d Cong. (88 p. 3/31/52).

Motor Vehicles (Congress).—Investigating (Public Res. 87, 75th, 4/13/38) distribution and retail sales policies of motor vehicle manufacturers and dealers, the Commission found, among other things, a high degree of concentration and strong competition; that many local dealers' associations fixed prices and operated used-car valuation or appraisal bureaus essentially as combinations to restrict competition; that inequities existed in dealer agreements and in certain manufacturers' treatment of some dealers; and that some companies' car finance plans developed serious abuses (Motor Vehicle Industry, H. Doc. 468, 76th, 1077 p., o. p., 6/5/39). The leading companies voluntarily adopted a number of the Commission's recommendations as company policies.

National Wealth and Income (Senate).—In 1922 the national wealth was estimated (inquiry pursuant to S. Res. 451, 67th, 2/28/23) at \$353,000,000,000 and the national income in 1923 at \$70,000,000,000 [National Wealth and Income (S. Doc. 126, 69th, 381 p., o. p., 5/25/26) and Taxation and Tax-Exempt Income (S. Doc. 148, 68th, 144 p., o. p., 6/6/24)].

Open-Price Associations (Senate).—An investigation (S. Res. 28, 69th, 3/17/25) to ascertain the number and names of so-called open-price associations, their importance in industry and the extent to which members maintained uniform prices, was reported in Open-Price Trade Association (S. Doc. 226, 70th, 516 p., o. p., 2/13/29).

Packer Consent Decree.—See Food (President) Continued—Meat Packing.

Paper—Book (Senate), Wartime, 1917-18.—This inquiry (S. Res. 269, 64th, 9/7/16) resulted in proceedings by the Commission against certain manufacturers to prevent price enhancement and the Commission recommended legislation to repress trade restraints [Book Paper Industry—A Preliminary Report (S. Doc. 45, 65th, 11 p., o. p., 6/13/17), and Book Paper Industry—Final Report (S. Doc. 79, 65th, 125 p., o. p., 8/21/17)].

Paper—Newsprint (Senate), Wartime, 1917-18.—High prices of newsprint (S. Res. 177, 64th, 4/24/16) were shown to have been partly a result of certain newsprint association activities in restraint of trade. Department of Justice proceedings resulted in abolishment of the association and indictment of certain manufacturers. The Commission for several years conducted monthly reporting of production and sales statistics, and helped provide some substantial relief for smaller publishers in various parts of the country. [Newsprint Paper Industry, preliminary (S. Doc. 3, 65th, 12 p., o. p., 3/3/17; Report of the F.T.C. on the Newsprint Paper Industry (S. Doc. 49, 65th) 162 p., o. p., 6/13/17); and Newsprint Paper Investigation (in response to S. Res. 95, 65th, 6/27/17; S. Doc. 61, 65th, 8 p., o. p., 7/10/17)].

Paper—Newsprint (Senate).—The question investigated (S. Res. 337, 70th, 2/27/29) was whether a monopoly existed among newsprint manufacturers and distributors in supplying paper to publishers of small dailies and weeklies (Newsprint Paper Industry, S. Doc. 214, 71st, 116 p., o. p., 6/30/30).

Petroleum.—See International Petroleum Cartel.

Petroleum Products.—See Distribution Methods and Costs.

Petroleum and Petroleum Products, Prices (President and Congress).—At different times the Commission has studied prices of petroleum and petroleum products and issued reports thereon as follows: Investigation of the Price of Gasoline, preliminary (S. Doc. 403, 64th, 15 p., o. p., 4/10/16) and Report on the Price of Gasoline in 1915 (H. Doc. 74, 65th, 224 p., o. p., 4/11/17—both pursuant to S. Res. 109, 63d, 6/18/13<sup>12</sup> and S. Res. 457, 63d, 9/28/14, which reports discussed high prices and the Standard Oil Companies' division of marketing territory among themselves, the Commission suggesting several plans for restoring effective competition; Advance in the Prices of Petroleum Products (H. Doc. 801, 66th, 57 p., o. p., 6/1/20)—pursuant to H. Res. 501, 66th, 4/5/20, in which report the Commission made constructive proposals to conserve the oil supply; Letter of Submittal and Summary of Report on Gasoline Prices in 1924 (24 p. processed, 6/4/24, and Cong. Rec., 2/28/25, p. 5158)—pursuant to request of President Coolidge, 2/7/24; Petroleum Industry—Prices, Profits and Competition (S. Doc. 61, 70th, 360 p., o. p., 12/12/27)—pursuant to S. Res. 31, 69th, 6/3/36; Importation of Foreign Gasoline at Detroit, Mich., (S. Doc. 206, 72d, 3 p., o. p., 2/27/33)—pursuant to S. Res. 274, 72d, 7/16/32; and Gasoline Prices (S. Doc. 178, 73d, 22 p., o. p., 5/10/34)—pursuant to S. Res. 166, 73d, 2/2/34.

Petroleum—Foreign Ownership (Senate).—Inquiry was made (S. Res. 311, 67th, 6/29/22) into acquisition of extension oil interests in the U.S. by the Dutch-Shell organization, and into discrimination allegedly practiced in foreign countries against American interests (Report of the F.T.C. on Foreign Ownership in the Petroleum Industry, 152 p., o. p., 2/12/23).

Petroleum Pipe Lines (Senate).—Begun by the Bureau of Corporations,<sup>13</sup> this inquiry (S. Res. 109, 63d, 6/18/13) showed the dominating importance of the pipe lines of the great midcontinent oil fields and reported practices of the pipe-

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<sup>12</sup> See footnote 8.

<sup>13</sup> See footnote 8. Conditions in one of the midcontinent fields were discussed by the Bureau of Corporations in Conditions in the Healdton Oil Field (Oklahoma) (116 p., 3/15/15).

line companies which were unfair to small producers (Report on Pipe-Line Transportation of Petroleum, 467 p., o. p., 2/28/16), some of which practices were later remedied by the Interstate Commerce Commission.

Petroleum—Regional Studies (Senate and F.T.C.).—Reports published were: Pacific Coast Petroleum Industry (two parts 4/7/21 and 11/28/21, 538 p., o. p.)—pursuant to S. Res. 138, 66th, 7/31/19; Reports of the F.T.C. on the Petroleum Industry of Wyoming (54 p., o. p., 1/3/21)—pursuant to F.T.C. motion; Petroleum Trade in Wyoming and Montana (S. Doc. 233, 67th, 4 p., o. p., 7/13/22)—pursuant to F.T.C. motion, in which report legislation to remedy existing conditions was recommended; and Report of the F.T.C. on Panhandle Crude Petroleum (Texas) (19 p., o. p., 2/3/28)—pursuant to F.T.C. motion, 10/6/26 (in response to requests of producers of crude petroleum).

Potomac Electric Power Co. (Procurement Director, United States Treasury).—A study (2/29/44) of the financial history and operations of this corporation for the years 1896-1943 was made at the request of the Director of Procurement, United States Treasury, and the report thereon was introduced into the record in the corporation's electric rate case before the District of Columbia Public Utilities Commission.

Power—Electric (Senate).—This inquiry (S. Res. 329, 68th, 2/9/25) resulted in two reports, the first of which, Electric Power Industry—Control of Power Companies (S. Doc. 213, 69th, 272 p., o. p., 2/21/27) dealt with the organization, control, and ownership of commercial electric-power companies. It called attention to the dangerous degree to which pyramiding had been practiced in superimposing a series of holding companies over the underlying operating companies, and was influential in bringing about the more comprehensive inquiry described under Power—Utility Corps., below. Supply of Electrical Equipment and Competitive Conditions (S. Doc. 46, 70th, 282 p., o. p., 1/12/28) showed, among other things, the dominating position of General Electric Co. in the equipment field.

Power—Interstate Transmission (Senate).—Investigation (S. Res. 151, 71st, 11/8/29) was made of the quantity of electric energy transmitted across State lines and used for development of power or light, or both (Interstate Movement of Electric Energy, S. Doc. 238, 71st, 134 p., o. p., 12/20/30).

Power—Utility Corporations (Electric and Gas Utilities) (Senate).—This extensive inquiry (S. Res. 83, 70th, 2/15/28; Public Res. 46, 73d, 6/1/34; and F.T.C. Act, Sec. 6) embraced the financial set-up of electric and gas utility companies operating in interstate commerce and of their holding companies and other companies controlled by the holding companies. The inquiry also dealt with the utilities' efforts to influence public opinion with respect to municipal ownership of electric utilities. The Commission's reports and recommendations, focusing congressional attention upon certain unfair financial practices in connection with the organization of holding companies and the sale of securities, were among the influences which brought about enactment of such remedial legislation as the Securities Act (1933), the Public Utility Holding Company Act (1935), the Federal Power Act (1935), and the Natural Gas Act (1938).

Public hearings were held on all phases of the inquiry and monthly interim reports presented hundreds of detailed studies by the Commission's economists, attorneys, accountants, and other experts, based on examination of 29 holding companies having \$6,108,128,713 total assets; 70 subholding companies with \$5,685,463,201 total assets; and 278 operating companies with \$7,245,106,464 total assets. The testimony, exhibits, and final reports (Utility Corporations, S. Doc. 92, 70th, o. p.) comprised 95 volumes.<sup>14</sup>

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<sup>14</sup> Final reports were published in 1935; a general index in 1937. Some of the volumes are out of print. For report titles, see F.T.C. Annual Report, 1941, p. 221; and for lists of companies investigated, see F.T.C. Annual Reports, 1935, p. 21, and 1936, p. 36.

Price Bases (F.T.C.).—More than 3,500 manufacturers representing practically every industrial segment furnished data for this study (F.T.C. motion, 7/27/27) of methods used for computing delivered prices on industrial products and of the actual and potential influence of such methods on competitive markets and price levels. In the cement industry the basing-point method<sup>15</sup> was found to have a tendency to establish unhealthy uniformity of delivered prices and cross-hauling or cross-freighting to be an economic evil (Report of the F.T.C. on Price Bases Inquiry, Basing-Point Formula, and Cement Prices, 218 p., o. p., 8/26/32). Illustrating the use in a heavy commodity industry of both a modified zone-price system and a uniform delivered-price system, the Commission examined price schedules of the more important manufacturers of range boilers, 1932-36, disclosing that the industry operated under a zone-price formula, both before and after adoption of its N.R.A. code (Study of Zone-Price Formula in Range Boiler Industry, 5 p., processed, 3/30/36, a summary based on the complete report which was submitted to Congress but not printed).

Price Deflation (President).—To an inquiry (3/21/21) of President Harding, the Commission made prompt reply (undated) presenting its views of the causes of a disproportional decline of agricultural prices compared with consumers' prices (Letter of the F.T.C. to the President of the U.S., 8 p., o. p.).

Profiteering (Senate), Wartime, 1917-18.—Current conditions of profiteering (S. Res. 255, 65th, 6/10/18) as disclosed by various Commission investigations were reported in Profiteering. (S. Doc. 248, 65th, 20 p., o. p., 6/29/18).

Quarterly Financial Report for Manufacturing Corporations.—Since 1947, the Federal Trade Commission has summarized for each calendar quarter uniform, confidential financial statements collected from a probability sample of all enterprises classified as manufacturers, except newspapers, which are required to file U.S. Corporation Income Tax Form 1120. The quarterly summaries, entitled Quarterly Financial Report for Manufacturing Corporations, are published by the Government Printing Office and sold by the Superintendent of Documents. In the published summaries, profits per dollar of sales and rates of profit on stockholders' equity are shown each quarter for each of 60 industry and size groups of manufacturing corporations. Also shown each quarter are 45 income statement and balance sheet items, and as many financial and operating ratios, for each of 45 industry and size groups of corporate manufacturers. (Similar reports for retail trade and wholesale trade corporations were published for the year 1950 and for each quarter of 1951 and 1952.)

Radio (House).—A comprehensive investigation of the radio industry (H. Res. 548, 67th, 3/4/23); Report of the F.T.C. on the Radio Industry, 347 p., o. p., 12/1/23) contributed materially to enactment of the Radio Act of 1927 and the succeeding Federal Communications Act of 1934. The investigation was followed by Commission and Department of Justice proceedings on monopoly charges which culminated in a consent decree (11/2/32; amended, 11/2/35).

Rags, Woolen.—See Textiles.

Raisin Combination.—See Food.

Range Boilers.—See Price Bases.

Rates of Return in Selected Industries (F.T.C.).—A comparison of the prewar (World War II) and postwar rates of return on stockholders' investments after taxes for more than 500 identical manufacturing corporations. The present report, published annually, covers the years 1940 and 1947-56, includes 25 selected manufacturing industries.

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<sup>15</sup> Basing-point systems are also discussed in the published reports listed under "Cement," "Steel Code," and "Steel Sheet Piling" herein.

Resale Price Maintenance (F.T.C.).—The question whether a manufacturer of standard articles, identified by trade-mark or trade practice, should be permitted to fix by contract the price at which purchasers should resell them, led to the first inquiry, resulting in a report, Resale Price Maintenance (H. Doc. 1480, 65th, 3 p., o. p., 12/2/18). Other reports were: A Report on Resale Price Maintenance (H. Doc. 145, 66th, 3 p., o. p., 6/30/19) and Resale Price Maintenance (F.T.C. motion, 7/25/27; reports, Part I, H. Doc. 546, 70th, 141 p., o. p., 1/30/29, and Part II, 215 p., o. p., 6/22/31). The Report of the F.T.C. on Resale Price Maintenance, o. p., (F.T.C. Res., 4/25/39) was submitted to Congress 12/13/45. The inquiry developed facts concerning the programs of trade organizations interested in the extension and enforcement of minimum resale price maintenance contracts, and the effects of the operation of such contracts upon consumer prices and upon sales volumes of commodities in both the price-maintained and non-price-maintained categories.

Rubber Tires and Tubes.—See Distribution Methods and Costs.

Salaries (Senate).—The Commission investigated (S. Res. 75, 73d, 5/29/33) salaries of executives and directors of corporations (other than public utilities) engaged in interstate commerce, such corporations having more than \$1,000,000 capital and assets and having their securities listed on the New York stock or curb exchanges. The Report of the F.T.C. on Compensation of Officers and Directors of Certain Corporations (15 p., processed, 2/26/34, o. p.) explained the results of the inquiry.<sup>16</sup> The facts developed focused the attention of Congress on the necessity of requiring listed corporations to report their salaries.

Southern Livestock Prices.—See Food.

Steel Code and Steel Code as Amended (Senate and President).—The Commission investigated (S. Res. 166 73d, 2/2/34) price fixing, price increases, and other matters (Practices of the Steel Industry Under the Code, S. Doc. 159, 73d, 79 p., o. p., 3/19/34) and the Commission and N.R.A. studied the effect of the multiple basing-point system under the amended code (Report of the F.T.C. to the President in Response to Executive Order of May 30, 1934, With Respect to the Basing-point System in the Steel Industry, 125 p., o. p., 11/30/34)<sup>17</sup> The Commission recommended important code revisions.

Steel Companies, Proposed Merger (Senate).—An inquiry (S. Res. 286, 67th 5/12/22) into a proposed merger of Bethlehem Steel Corp. and Lackawanna Steel Co., and of Midvale Steel & Ordnance Co., Republic Iron & Steel Co., and Inland Steel Co., resulted in a two-volume report. Merger of Steel and Iron Companies (S. Doc. 208, 67th, 11 p., o. p., 6/5/22 and 9/7/22).

Steel Costs and Profits.—See Wartime Cost Findings, 1917-18.

Steel Sheet Piling—Collusive Bidding (President).—Steel sheet piling prices on certain Government contracts in New York, North Carolina, and Florida were investigated (inquiry referred to F.T.C. 11/20/35). The F.T.C. Report to the President on Steel Sheet Piling (42 p., processed, 6/10/36 o. p.) demonstrated the existence of collusive bidding because of a continued adherence to the basing-point system<sup>18</sup> and provisions of the steel industry's code.

Stock Dividends (Senate).—The Senate requested (S. Res. 304, 69th, 12/22/26) the names and capitalizations of corporations which had issued stock dividends, and the amounts thereof, since the Supreme Court decision (3/8/20) holding that such dividends were not taxable. The same Information for an equal period

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<sup>16</sup> The salary lists do not appear in the report but are available for inspection.

<sup>17</sup> As of the same date, the N.R.A. published its Report of the National Recovery Administration on the Operation of the Basing-Point System in the Iron and Steel Industry (175 p., processed). The basing-point system is also discussed in published reports listed under "Cement" and "Price Bases" herein.

<sup>18</sup> See footnote 15.

prior to the decision was also requested. The Commission submitted a list of 10,245 corporations, pointing out that declaration of stock dividends at the rate prevailing did not appear to be a result of controlling necessity and seemed questionable as a business policy (Stock Dividends, S. Doc. 26, 70th, 273 p., o. p., 12/5/27).

Sugar.—See Food.

Sulphur Industry (F.T.C.).—In its report to Congress on The Sulphur Industry and International Cartels (6/16/47), o. p., the Commission stated that the operations of all four producers constituting the American sulphur industry generally have been highly profitable, and that the indications are that foreign cartel agreements entered into by Sulphur Export Corp., an export association organized under the Webb-Pomerene Law, have added to the profitability of the U.S. industry. On 2/7/47, after hearings, the Commission recommended that Sulphur Export Corp. readjust its business to conform to law.

Taxation and Tax-Exempt Income.—See National Wealth and income.

Temporary National Economic Committee, Studies of the F.T.C.—See F.T.C. Annual Report, 1941, p. 218, for titles.

Textiles (President).—President Roosevelt (Executive Order of 9/26/34) directed an inquiry into the textile industry's labor costs, profits, and investment structure to determine whether increased wages and reduced working hours could be sustained under prevailing economic conditions. Reports covering the cotton, woolen and worsted, silk and rayon, and thread, cordage and twine industries were: Report of the F.T.C. on Textile Industries, Parts I to VI, 12/31/34 to 6/20/35, 174 p., o. p. (Part VI financial tabulations processed 42 p., o. p.); Report of the F.T.C. on the Textile Industries in 1933 and 1934, Parts I to IV, 8/1/35 to 12/5/35, 129 p., o. p.; Parts II and III, o. p. (Part IV, processed, 21 p., o. p.; accompanying tables, processed, 72 p., o. p.); Cotton Spinning Companies Grouped by Types of Yarn Manufactured During 1933 and 1934, 1/31/36, 20 p., processed, o. p.; Cotton Weaving Companies Grouped by Types of Woven Goods Manufactured During 1933 and 1934, 3/24/36, 48 p., processed, o. p.; Textile Industries in the First Half of 1935, Parts I to III, 5/22/36 to 8/22/36, 119 p., processed, o. p.; Textile Industries in the Last Half of 1935, Parts I to III, 11/20/36 to 1/6/37, 155 p., processed, o. p.; and Textile Industries in the First Half of 1936, Parts I to III, 1/21/37 to 2/11/37, 163 p., processed, o. p.

Textiles—Combed Cotton Yarns.—High prices of combed cotton yarns led to this inquiry (H. Res. 451, 66th, 4/5/20) which disclosed that while for several years profits and prices had advanced, they declined sharply late in 1920 (Report of the F.T.C. on Combed Yarns, 94 p., o. p., 4/14/21).

Textiles—Cotton Growing Corporation.—See Foreign Trade.

Textiles—Cotton Merchandising (Senate).—Investigating abuses in handling consigned cotton (S. Res. 252, 68th, 6/7/24), the Commission made recommendations designed to correct or alleviate existing conditions (Cotton Merchandising Practices, S. Doc. 194, 68th, 38 p., o. p., 1/20/25).

Textiles—Cotton Trade (Senate).—Investigation (S. Res. 262, 67th, 3/29/22) involved a decline in cotton prices, 1920-22, as reported in Preliminary Report of the F.T.C. on the Cotton Trade (S. Doc. 311, 67th, 28 p., o. p., 2/26/23). After a second inquiry (S. Res. 429, 67th, 1/31/23), the Commission recommended certain reforms in trading practices and particularly in permitting Southern delivery of cotton on New York futures contracts (The Cotton Trade, incl. testimony, S. Doc. 100, 68th, 2 vols., 510 p., o. p., 4/28/24). A subsequent Senate bill (S. 4411, 70th, 5/18/28) provided for Southern warehouse delivery, but, before any law was enacted, the New York Cotton Exchange adopted Southern delivery

on New York futures contracts (11/16/28 and 2/26/30) in accordance with the Commission's recommendations.

Textiles—Woolen Rag Trade (F.T.C.), Wartime, 1917-18.—The Report on the Woolen Rag Trade (90 p., o. p., 6/30/19) contains information gathered during the World War, 1917-18, at the request of the War Industries Board, for its use in regulating the prices of woolen rags employed in the manufacture of clothing.

Tobacco (Senate).—Inquiry (S. Res. 329, 2/9/25) into activities of two well-known companies disclosed that alleged illegal agreements or conspiracies did not appear to exist. (The American Tobacco Co. and the Imperial Tobacco Co., S. Doc. 34, 69th, 129 p., o. p., 12/25/25).

Tobacco Marketing—Leaf (F.T.C.).—Although representative tobacco farmers in 1929 alleged existence of territorial and price agreements among larger manufacturers to control cured leaf tobacco prices, the Commission found no evidence of price agreements and recommended production curtailment and improvement of marketing processes and cooperative relations (Report on Marketing of Leaf Tobacco in the Flue-Cured Districts of the States of North Carolina and Georgia, 54 p., o. p., processed, 5/23/31).

Tobacco Prices (Congress).—Inquiries with respect to a decline of loose-leaf tobacco prices following the 1919 harvest (H. Res. 533, 66th, 6/3/20) and low tobacco prices as compared with high prices of manufactured tobacco products (S. Res. 129, 67th, 8/9/21) resulted in the Commission recommending modification of the 1911 decree (dissolving the old tobacco trust) to prohibit permanently the use of common purchasing agencies by certain companies and to bar their purchasing tobacco under any but their own names (Report of the F.T.C. on the Tobacco Industry, 162 p., o. p., 12/11/20, and Prices of Tobacco Products, S. Doc. 121, 67th, 109 p., o. p., 1/17/22).

Trade and Tariffs in South America (President).—Growing out of the First Pan-American Financial Conference held in Washington, May 24-29, 1915, this inquiry (referred to F.T.C. 7/22/15) was for the purpose of furnishing necessary information to the American branch of the International High Commission appointed as a result of the conference. Customs administration and tariff policy were among subjects discussed in the Report on Trade and Tariffs in Brazil, Uruguay, Argentina, China, Bolivia, and Peru (246 p., o. p., 6/30/16).

Twine.—See Sisal Hemp and Textiles.

Utilities.—See Power.

Wartime Cost Finding (President), 1917-18.—President Wilson directed the Commission (7/25/17) to find the costs of production of numerous raw materials and manufactured products. The inquiry resulted in approximately 370 wartime cost investigations. At later dates reports on a few of them were published,<sup>19</sup> including: Cost Reports of the F.T.C.—Copper (26 p., o. p., 6/30/19); Report of the F.T.C. on Wartime Costs and Profits of Southern Pine Lumber Companies (94 p., o. p., 5/1/22); and Report of the F.T.C. on Wartime Profits and Costs of the Steel Industry (138 p., o. p., 2/18/25). The unpublished reports<sup>20</sup> cover a wide variety of subjects. On the basis of the costs as found, prices were fixed, or controlled in various degrees, by Government agencies such as the War and Navy Departments, War Industries Board, Price Fixing Committee, Fuel and Administration, Food Administration, and Department of Agriculture. The Commission also conducted cost inquiries for the Interior Department, Tariff Commission, Post Office Department, Railroad Administration, and other Government departments or agencies. It is estimated that the inquiries helped to save the country many billions of dollars by checking unjustifiable price advances.

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<sup>19</sup> See footnote 10.

<sup>20</sup> Approximately 260 of the wartime cost inquiries are listed in the F.T.C. Annual Reports, 1918, pp. 29-30, and 1919, pp. 39-42, and in World War Activities of the F.T.C., 1917-18 (69 p., processed, 7/15/40).

Wartime Costs and Profits (F.T.C.).—Cost and profit information for 4,107 identical companies for the period 1941-45 is contained in a Commission report on Wartime Costs and Profits for Manufacturing Corporations, 1941 to 1945 (30 p., processed, with 106 p. appendix). Compilation of the information contained in the report was begun by the Office of Price Administration prior to the transfer of the financial reporting function of that agency to the Federal Trade Commission in December 1946.

Wartime Inquiries, 1917-18, Continued.—Further wartime inquiries of this period are described herein under the headings: Coal, Coal Reports—Cost of Production, Cost of Living, Flags, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper—Book, Paper—Newsprint, Profiteering, and Textiles—Woolen Rag Trade, o. p.

The following are unpublished investigations by the  
Commission for the use of other government agencies:

Aluminum Foundries (W.P.B.), Wartime, 1942-43.—Details were obtained for the War Production Board, at its request, from aluminum foundries throughout the U.S. covering their operations for May 1942 and their compliance with W.P.B. Supplementary Orders m-1-d, M-1-c, and M-1-f.

Antifreeze Solutions, Manufacturers of (W.P.B.), Wartime, 1943-44.—War Production Board Order L-258 of 1/20/43 prohibited production of salt and petroleum-base antifreeze solutions. While production of these products had ceased, great quantities were reported to be still in the hands of producers and distributors. To enable W.P.B. to determine what further action should be taken to protect essential automotive equipment from these solutions, it requested the Commission to locate producers' inventories as of 1/20/43, and to identify all deliveries made from such inventories to distributors subsequent to that date.

Capital Equipment (W.P.B.), Wartime, 1942-43.—For the War Production Board, a survey was made in connection with Priorities Regulation No. 12, as amended 10/3/42, of concerns named by it to determine whether orders had been improperly related to secure capital equipment or whether orders that had been rerated had been extended for the purpose of obtaining capital equipment in violation of priorities regulations.

Chromium Processors (W.P.B.), Wartime, 1942-43.—For the War Production Board, the Commission investigated the transactions of the major chromium processors to determine the extent to which they were complying with Amendment No.-2 to W.P.B. General Preference Order No. m-18a, issued 2/4/42. The investigation was conducted concurrently with a survey of nickel processors.

Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of (W.P.B.), Wartime, 1942-43.—The Commission conducted an investigation for the War Production Board to determine whether manufacturers of commercial cooking and plate warming equipment were complying with W.P.B. Limitation Orders L-182 and L-182 as amended 3/2/43; Conservation Orders M-126 and M-9-c, as amended; and Priorities Regulation No. 1.

Contractors, Prime, Forward Buying Practices of (W.P.B.), Wartime, 1942-43.—The matter of procurement, use, and inventory of stocks of critical materials involved in the operation of major plants devoting their efforts to war production was inquired into for the information of the War Production Board. Items such as accounting, inventory, control, purchase, practices, etc., formed a part of the inquiry.

Copper Base Alloy Ingot Makers (W.P.B.), Wartime, 1942-43.—This investigation was designed to ascertain the operations, shipments, and inventories of

copper, copper alloys, copper scrap, and copper base alloy ingot makers and was conducted for the purpose of determining the extent to which they were complying with governing W.P.B. Preference and Conservation Orders M-9-a and b, and M-9-c.

Copper, Primary Fabricators of (W.P.B.), Wartime, 1941-42.—A survey and inspection of a specified list of companies which used a large percentage of all refinery copper allocated, and at the same time represented a fair cross-section of the industry, were made to ascertain the degree of compliance accorded to preference, supplementary, and conservation orders and regulations of the Director of Priorities, Office of Production Management (later the War Production Board).

Cost of Living (President).—President Roosevelt, in a published letter (11/16/37), requested the Commission to investigate living costs. The Commission (11/20/37) adopted a resolution undertaking the inquiry and a few months thereafter submitted a report to the President.

Costume Jewelry, Manufacturers of (W.P.B.), Wartime, 1943-44.—Because it appeared that vast quantities of critical metals were being diverted illegally from war use to the manufacture of costume jewelry and similar items, the War Production Board requested the Commission to investigate 45 manufacturers to ascertain the facts concerning their compliance with W.P.B. Orders M-9-a, M-9-b, M-9-c, M-9-c-2, M-43, M-38, M-11, M-11-b, M-126, L-81, L-131, and L-131-a, all as amended.

Electric Lamp Manufacturers (W.P.B.), Wartime, 1942-43.—At the direction of the War Production Board, an investigation was made of the activities of manufacturers of portable electric lamps whose operations were subject to the restrictions imposed by W.P.B. Limitation and Conservation Orders L-33 and M-9-c.

Fertilizer and Related Products (O.P.A.), Wartime, 1942-43.—At the request of O.P.A. (June 1942), the Commission investigated costs, prices, and profits in the fertilizer and related products industries. The inquiry developed information with reference to the operations of 12 phosphate rock mines of 11 companies, and 40 plants of 24 companies producing sulphuric acid, superphosphate, and mixed fertilizer. One of the principal requirements of the inquiry was to obtain information concerning costs, prices, and profits for 103 separate formulas of popular-selling fertilizers during 1941 and 1942.

Food—Biscuits and Crackers (O.P.A.), Wartime, 1942-43.—As requested by the Office of Price Administration, the Commission investigated costs and profits in the biscuit and cracker manufacturing industry and submitted its report to that agency 3/25/43. The survey of 43 plants operated by 25 companies showed, among other things, that costs were lower and profits higher for the larger companies than for the smaller ones.

Food—Bread Baking (O.E.S.), Wartime, 1942-43.—This investigation was requested (10/23/42) by the Director of the Office of Economic Stabilization and was conducted to determine what economies could be made in the bread-baking industry so as to remove the need for a subsidy for wheat, to prevent an increase in bread prices, or to lower the price of bread to consumers. Essential information on more than 600 representative bakeries' practices, costs, prices, and profits was developed and reported to O.E.S.P. (12/29/42). The report also was furnished to the Secretary of Agriculture and special data gathered in the inquiry were tabulated for O.P.A.

Food—Bread Baking (O.P.A.), Wartime, 1941-42.—In the interest of the low-income consumer, for whom it was deemed necessary the price of bread should be held at a minimum, the Commission investigated costs, prices, and profits of 60 representative bread-baking companies, conveying its findings to O.P.A. (Jan. 1942) in an unpublished report.

Food—Flour Milling (O.E.S.), Wartime, 1942-43.—Requested by the Director of the Office of Economic Stabilization, this inquiry covered practices, costs, prices, and profits in the wheat flour-milling industry, its purpose being to provide the Director with facts to determine what economies could be effected in the industry so as to eliminate the need for a wheat subsidy, without reducing farmers' returns, or to reduce bread prices. The report was made to O.E.S. and a more detailed report was prepared for O.P.A.

Fruit Growers and Shippers (W.P.B.), Wartime, 1943-44.—This investigation was requested by the War Production Board to determine whether 7 grape growers and 12 grape shippers, all located in California, were in violation of W.P.B. Order L-232 with respect to quotas affecting the use of lugs (wooden shipping containers).

Furnaces, Hot Air, Household (W.P.B.), Wartime, 1943-44.—The Commission made a Nation-wide survey for the War Production Board of the operations of one of the largest manufacturers in the United States of household hot air furnaces, to determine whether its practices in selling and servicing domestic heating plants were in violation of Orders L-79 and P-84, and other applicable regulations and orders of W.P.B.

Fuse Manufacturers (W.P.B.), Wartime, 1942-43.—For the War Production Board the Commission investigated and reported on the activities of representative fuse manufacturers whose operations were subject to W.P.B. Limitation Orders L-158 and L-161, as amended.

Glycerin, Users of (W.P.B.), Wartime, 1942-43.—At the request of the War Production Board, paint and resin manufacturers, tobacco companies, and other large users of glycerin were investigated to determine whether they had improperly extended preference ratings to obtain formaldehyde, paraformaldehyde, or hexamethylenetetramine, to which they were not otherwise entitled.

Household Furniture (O.P.A.), Wartime, 1941-42.—Costs, prices, and profits of 67 representative furniture companies were studied to determine whether, and to what extent, price increases were justified. A study was also made to determine whether price-fixing agreements existed and whether wholesale price increases resulted from understandings in restraint of trade. Confidential reports were transmitted to O.P.A. in Sept. 1941.

Insignia Manufacturers (W.P.B.), Wartime, 1944-45.—Preliminary studies made by the War Production Board disclosed the probability that certain insignia manufacturers had acquired larger quantities of foreign silver than necessary to fill legitimate orders and diverted the balance to unauthorized uses. In response to W.P.B.'s request the Commission surveyed the acquisition and use of foreign silver by such manufacturers to determine the degree of their compliance with Order M-199 and checked the receipt and use of both domestic and treasury silver, as well as the manufacture of insignia, as controlled by Orders L-131 and M-9-c.

Jewel Bearings, Consumers of (W.P.B.), Wartime, 1942-43.—For the War Production Board, users of jewel bearings were investigated to determine the extent to which they were complying with W.P.B. Conservation Order M-50, which had been issued to conserve the supply and direct the distribution of jewel bearings and jewel-bearing material.

Metal-Working Machines, Invoicing and Distribution of (W.P.B.), Wartime, 1942-43.—For the War Production Board an inquiry was made to obtain complete data from the builders of metal-working machines (including those manufactured by their subcontractors) such as all nonportable power-driven machines that shape metal by progressively removing chips or by grinding, boning, or lopping; all nonportable power-driven shears, presses, hammers, bending ma-

chines, and other machines for cutting, trimming, bending, forging, pressing, and forming metal; and all power-driven measuring and testing machines. Each type and kind of machine was reported on separately.

Nickel Processors (W.P.B.), Wartime, 1942-43.—The Commission was designated by the War Production Board to investigate the transactions of some 600 nickel processors for the purpose of determining the extent to which they were complying with W.P.B. Preference Order No. M-6-a, issued 9/30/41, and Conservation Order M-6-b, issued 1/20/42. The investigation was conducted concurrently with a survey of chromium processors.

Optical Decree (Attorney General).—The Commission investigated (inquiry referred to F.T.C. 8/12/52) the manner in which an antitrust consent decree entered (Sept. 1948) against the American Optical Company and others, restraining them from discriminatory and monopolistic practices, was being observed, and report (2/10/54) to the Attorney General.

Paint, Varnish, and Lacquer Manufacturers (W.P.B.), Wartime, 1943-44.—The purpose of this survey was to determine whether the manufacturers covered were in violation of War Production Board Orders M-139, M-150, M-159, M-246, and M-327 in their acquisition and use of certain chemicals, all subject to W.P.B. allocations, used in the manufacture of paint, varnish, and lacquer. Sales of such products to determine their end uses also were investigated.

Paperboard (O.P.A.), Wartime, 1941-42.—Costs, profits, and other financial data regarding operations of 68 paperboard mills (O.P.A. request, 11/12/41) for use in connection with price stabilization work, were transmitted to O.P.A. in a confidential report (May 1942).

Paper—Newsprint (Attorney General).—The Commission investigated (inquiry referred to F.T.C. 1/24/38) the manner in which certain newsprint manufacturers complied with a consent decree entered against them (11/26/17) by the U.S. District Court, Southern District of New York.

Petroleum Decree (Attorney General).—The Commission investigated (inquiry referred to F.T.C. 4/16/36) the manner in which a consent decree entered (9/15/30) against Standard Oil Co. of California, Inc., and others, restraining them from monopolistic practices, was being observed, and reported (4/2/37) to the Attorney General.

Priorities (W.P.B.), Wartime, 1941-45.—Pursuant to Executive orders (January 1942), W.P.B. designated the Federal Trade Commission as an agency to conduct investigations of basic industries to determine the extent and degree to which they were complying with W.P.B. orders relative to the allocation of supply and priority of delivery of war materials. F.T.C. priorities investigations are listed herein under the headings: Aluminum, Foundries Using; Antifreeze Solutions, Manufacturers of; Capital Equipment, Chromium, Processors of; Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of; Contractors, Prime, Forward Buying Practices of; Copper Base Alloy Ingot Makers; Copper, Primary Fabricators of; Costume Jewelry, Manufactures of; Electric Lamps, Manufacturers of; Fruit Growers and Shippers; Furnaces, Hot Air, Household; Fuse Manufacturers; Glycerin, Users of; Insignia Manufacturers; Jewel Bearings, Consumers of; Metal-working Machines, Invoicing and, Distribution of; Nickel, Processors of; Paint, Varnish, and Lacquer, Manufacturers of; Quinine, Manufacturers and Wholesalers of; Silverware, Manufacturers of; Silverware Manufacturers and Silver Suppliers; Steel Industry; Textile Mills, Cotton; and Tin, Consumers of. The report on each of these investigations was made directly to W.P.B.

Quinine, Manufacturers and Wholesalers of (W.P.B.), Wartime, 1942-43.—At the instance of the War Production Board, investigation was made to deter-

mine whether requirements of its Conservation Order No. M-131-a, relating to quinine and other drugs extracted from cinchona bark, were being complied with.

Silverware Manufacturers (W.P.B.), Wartime, 1942-43.—Silverware manufacturers were investigated at the request of the War Production Board to determine the extent to which they had complied with the copper orders, that is, W.P.B. General Preference Order No. M-9-a, Supplemental Order No. M-9-b, and Conservation Order m-9-c, as amended.

Silverware Manufacturers and Silver Suppliers (W.P.B.), Wartime, 1942-43.—The activities of silverware manufacturers and silver suppliers under W.P.B. Conservation and Limitation Orders m-9-a, b, and c, m-100 and L-140 were investigated and reported on at the request of the War Production Board.

Sisal Hemp (Senate).—The Commission assisted the Senate Committee on Agriculture and Forestry in an inquiry (S. Res. 170, 64th, 4/17/16) and advised how certain quantities of hemp promised by the Mexican sisal trust, might be fairly distributed among American distributors of binder twine (Mexican Sisal Hemp, S. Doc. 440, 64th, 8 p., o. p., 5/9/16). The Commission's distribution plan was adopted.

Steel Costs and Profits (O.P.A.), Wartime, 1942-43.—A report on the Commission's survey of costs, prices and profits in the steel industry, begun in April 1942 at the request of O.P.A., was made to that agency. The inquiry covered 29 important steel-producing companies.

Steel Industry (O.P.M.), Wartime, 1941-42.—This investigation covered practically every steel mill in the country and was conducted for the purpose of determining the manner in which the priorities and orders promulgated by the Office of Production Management were being observed. i. e., the technique used in the steel industry in meeting the requirements of O.P.M. (later the War Production Board) orders and forms controlling the distribution of pig iron, iron and steel, iron and steel alloys, and iron and steel scrap.

Textile Mills, Cotton (W.P.B.), Wartime, 1943-44.—For the War Production Board the Commission conducted a compliance investigation of manufacturers of cotton yarns, cordage, and twine to ascertain whether they were in violation of Priorities Regulation 1, as amended, by their failure to fill higher rated orders at the time they filled lower rated orders.

Tin Consumers (W.P.B.), Wartime, 1942-43.—The principal consumers of tin were investigated at the instance of the War Production Board to determine the degree of their compliance with Conservation Order m-43-a, as amended, and other orders and regulations issued by the Director of the Division of Industry Operation, controlling the inventories, distribution, and use of the tin supply in the U.S.

War Materials Contracts (House), Wartime, 1941-42.—At the request of the House Committee on Naval Affairs, the Commission assigned economic and legal examiners to assist in the Committee's inquiry into progress of the national defense program (H. Res. 162, 77th, 4/2/41). The Commission's examiners were active in field investigations covering aircraft manufacturers' cost records and operation, naval air station construction, materials purchased for use on Government contracts, and industry expansion financing programs.

Wartime Inquiries, 1941-45.—To aid in the 1941-45 war program, F.T.C. was called upon by other Government departments, particularly the war agencies, to use its investigative, legal, accounting, statistical and other services in conducting investigations. It made cost, price, and profit studies; compiled industrial corporation financial data; investigated compliance by basic industries with W.P.B. priority orders; and studied methods and costs of dis-

tributing important commodities. The 1941-45 wartime investigations are herein listed under the headings: Advertising as a Factor in Distribution; Cigarette Shortage; Distribution Methods and Costs; Fertilizer and Related Products; Food—Biscuits and Crackers; Food—Bread Baking; Food—Fish; Food—Flour Milling; Household Furniture; Industrial Financial Reports; Metal-Working Machines; Paperboard; Priorities; Steel Costs and Profits; and War Material Contracts.